

In our comments on the October 2007 draft EA, we asked that the design allows for continued maintenance of the existing vehicle barrier. The request does not appear to be addressed in the FEA therefore that responsibility will be shifted to U.S. Department of Homeland Security since there will be no immediate and safe access for our staff. NPS will continue to maintain the permanent vehicle barrier in areas outside of the pedestrian fence.

The FEA repeatedly references the 2003 NPS FEA for the vehicle barrier. Although the 2003 EA is a convenient reference, it should not be used to describe the affected environment of the area that will be impacted by the proposed project. The pedestrian fence is proposed for only 5.2 miles, while the 2003 NPS FEA addresses impacts for a barrier more than 20 miles long and the construction differs immensely from a post and rail system to solid 10x15 foot panels.

References to resources at Quitobaquito are made throughout the document. Most of these should be removed, as the proposed project would not affect resources there and this site is remotely located from subject work area.

We include, by this reference, comments on the draft EA that we continue to believe are unaddressed issues.

Specific Comments

Page FONSI-5, Biological Resource: The revegetation plan that is mentioned to be completed after the construction activities should be reviewed and in place prior to the construction work. Additionally many elements missing such as what is being planned for all columnar cacti larger than 6 feet!

Page FONSI-5, Cultural Resources: We wish to clarify that the professional archeological monitors will be provided by the U.S. Border Patrol (USBP). Also, please identify the three historic objects that lie within the proposed construction corridor that will be monitored.

Page FONSI-5, Cultural Resources: Due to the amount of ground-clearing and digging involved with this project, we recommend that a professional archeological monitor be present for the entire extent of the project.

Page FONSI-5, Water Resources: If the Storm Water Pollution Protection Plan (SWPPP) requires a restoration plan, we request the opportunity to review and approve it.

Page 1-3, part 1.2.3. Background: Please correct the statement that all of the construction activities for the PVB along OPCNM's southern boundary occurred within OPCNM. Most of the construction activities occurred within the 60-ft Roosevelt Reservation.

Page 2-3, part 2.3.1. Technology: The FEA justifies the need for a fence in the Lukeville area by stating that physical barriers are the most effective at preventing illegal border crossings in the more populated areas of the Tucson sector. This rationale is unsupported in the Lukeville/Sonoyta area, where many of the more intensively used illegal border crossing areas along the southern boundary of OPCNM are in the more unpopulated areas.

Page 2-4, part 2.5 Summary: Table one states that the technological solution will not deter illegal pedestrian traffic, yet the USBP will be relying on this method to deter pedestrian traffic outside the pedestrian fence. Please explain.

Pages 2-5 and 2-6, Table 2-2 Summary Matrix: Please see our comments on these items in the Affected Environment Section (Part 3.0). Also in the unique and sensitive areas section; the comment regarding the "7 acres over Sonoyta Hill would change from NPS lands to USBP infrastructure" is incorrect. As was mentioned in the opening comments, the work and results of work will be articulated in a special use permit once all elements of NEPA are satisfied and will remain NPS lands. Noise; the clatter/chafing between double layer panels will become quite pronounced especially with windy and alternatives need to be developed to correct this. Aesthetics; Disagree that no significant impacts would occur and minimizing trash is expected to outweigh adverse impact.

Page 3-2, part 3.2 Soils: We recommend that the engineering plans consider the salinity of the soils in a proportion of the construction zone. Due to the proximity of the area to the Rio Sonoyta, these soils contain a high concentration of sodium, which can corrode concrete. Salinity is indicated by the presence of saltbush species *Atriplex polycarpa* and *A. linearis*, both salt-tolerant species.

Page 3.3.1. Vegetation Communities: Please correct the FEA statements about vegetation. The vegetation within the project corridor is a subset of the vegetation described in the 2003 NPS final EA for the vehicle barrier. *Atriplex polycarpa*, *A. linearis*, *Larrea divaricata* ssp. *tridentata* are the dominant species on the bottoms and dissected hills. This vegetation type is uncommon on OPCNM, occurring less than 2-3 miles of the international boundary. This vegetation type is bearing the brunt of environmental impacts due to border-related activities on OPCNM.

Dominant species in the xeroriparian corridors in the proposed project area include *Prosopis velutina*, *Olneya tesota*, *Parkinsonia floridum*, *Condalia globosa*, *Ambrosia ambrosioides*, and various *Lycium* species. On Monument Hill (Sonoyta Hill), dominant plant species include *Parkinsonia floridum*, *Olneya tesota*, *Prosopis velutina*, *Stenocereus thurberi*, *Carnegiea gigantea*, *Fouquieria splendens*, *Larrea divaricata*, *Lycium* species, and *Ambrosia deltoidea*.

Page 3-2, Part 3.3.2. Wildlife: OPCNM considers the cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*) to be a species of management concern. Suitable habitat occurs in the proposed project area and should be addressed in this final EA.

Page 3-3, part 3.3.3. Non-native and Invasive Species: Rather than identify the most common species on OPCNM, the FEA should identify the invasive species in the proposed project area. For example, *Mesembryanthemum* does not occur in the project area, but *Cynodon dactylon* does.

Page 3-5, part 3.6 Protected Species: This section does not address sensitive species that require special management attention but are not protected by the Endangered Species Act. A small population of *Peniocereus striatus*, which is known from a few locations in the U.S., is located in the proposed project corridor. We recommend avoiding the disturbance of any plants in the Roosevelt Reservation. If avoidance is not possible, then salvage should be overseen by OPCNM.

The cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*) is another species that is specially managed by OPCNM. Potential habitat occurs in the construction zone, and the breeding period overlaps with the proposed construction period. Surveys should be performed and the impacts to this species should be evaluated.

Page 3-7, part 3.6.1.2. Lesser long-nosed bat: Sonora barrel cactus and California barrel cactus are not columnar cacti and are not used as a food resource by bats. Do not include them in the count of columnar cacti.

Page 3-8, Figure 3-1 Map of Sonoran pronghorn range: Please cite the information source used to prepare this map. OPCNM does not agree with the stated range boundaries.

Page 3-9, part 3.6.1.3 Acuña Cactus: Seven (not five) populations of acuña cactus are known; the Pima County 2001 reference is outdated. This subspecies is not known to occur on limestone; please remove the reference.

Page 3-12, part 3.9 Water Resources: Although they are not perennial streams, it is likely that the larger drainages in the proposed project area are regulated by Section 404 of the Clean Water Act. Please indicate if the drainages in the project area have been evaluated to determine if they are jurisdictional waters. Clarify the criteria used to determine the 16 intermittent streams and also identify locations. There are easily additionally another 24 streams that should also be evaluated. Please clarify where the water for the project (**1.7 million gallons-3.7 million gallons** /referenced on page 4.1) will come from. There is discussion regarding groundwater recharge rates and mention hauling water from Ajo or Why. If this is not the case and water is purchased locally from the property owner at Lukeville, the drawdown on this well needs to be monitored daily while in production. In addition we are requesting that both domestic wells that serve our infrastructure 4 miles due north near our Visitor Center also be monitored for drawdown. There is immense concern for extensive water and the possibility of effects on our two wells.

Page 3-13, last sentence: The correct spelling of Tibbets is Tibbitts.

Page 4-1, part 4.0 Environmental Consequences: Disagree with the comment that this "EA describes the potential permanent impacts". How can this be possible when it's also stated that the design/build process will be utilized? How can the potential for impact are assessed if you don't know the design not only of the fence but how and where it will be constructed. In most cases from my experience it's difficult to evaluate impact of a project without final design incorporated in the EA process.

Page 4-2, part 4.1.2 Alternative 2, second paragraph: It is predictable that the proposed fence will cause indirect impacts. If the fence performs as expected and USBP agents are deployed to areas without the pedestrian fence, then OPCNM predicts that additional enforcement-related off-road driving will occur in those areas. These environmental impacts should be included in this document. The change from NPS lands to USBP infrastructure and enforcement operations was discussed previously. Support the statement that a Special Use permit would need to be obtained from NPS for this action of using the additional 7 acres outside the Roosevelt Reservation prior to construction.

Page 4-3, part 4.2.2. Alternative 2, first paragraph: OPCNM believes the proposed action would have widespread, long-term and significant impacts on soils, with special emphasis on the Holocene, sandy loam alluviums of the valley bottoms. Ground disturbing activities that cause soil structure loss and deflation (e.g. disturbance, compaction, blading) usually trigger accelerated erosion that can not be treated with infrastructure, including best management practices. Gilman and Antho Series soils are the two soil types most prone to accelerated erosion on OPCNM. A significant portion of the proposed action occurs on these soils.

Once accelerated erosion is triggered, the resulting watershed instability will cause deep gullying on Gilman and Antho soils and will have far-reaching implications in the affected watersheds. These impacts need to be considered in the FEA and in the project design. Fence design will be a critical part of minimizing impacts on soils. Since most of the impacts will occur on OPCNM, the NPS should be closely involved with the SWPPP.

Page 4-4, part 4.3.1.2 Alternative 2: As previously mentioned, the saltbush vegetation association is uncommon on OPCNM and is regionally threatened. A significant portion of the project is in this vegetation type.

Page 4-5, part 4.3.2.2, first paragraph: Here and elsewhere, please correct the statement that most of the project corridor has been previously disturbed. Most of the Roosevelt Reserve over Monument Hill has not been disturbed, and about half of the Roosevelt Reserve in the remaining section has not been disturbed.

Page 4-5, part 4.3.2.2, third paragraph: Please provide citations for the sentence beginning, "Habitat fragmentation typically affects....". OPCNM continues to disagree with the statement that the fence will have no significant adverse effects on wildlife.

Page 4-6, part 4.3.3.2: The project corridor, particularly Monument Hill, will not be regularly patrolled by a person qualified to identify and respond to non-native, invasive species. Will qualified USBP monitors be monitoring the construction zone in perpetuity? Also, please provide citations that document the statement that "many invasive plant propagules are transported into the U.S. on clothing of IAs." We are aware of no such studies.

Page 4-7, part 4.4.2, first paragraph: This paragraph has several conflicting statements regarding access that should be corrected. A special use permit from NPS would not be needed if only the Roosevelt Reservation was used during construction.

Page 4-7, part 4.4.2, paragraph 2: We disagree with the statement that the impacts of the proposed project are outweighed by the impacts of illegal activity. We believe the permanent direct impacts and the long-lasting indirect impacts of the pedestrian fence will be far greater than the relatively impermanent impact of illegal border activities.

Page 4-8, part 4.5.2, paragraph 1: We agree that noise due to construction of the fence would be temporary. We are more concerned with constant noise/clatter from the double mesh segments on the panels especially with natural wind action. The EA needs to include an evaluation of how the fence and the access road over Monument Hill will adversely, permanently and significantly affect the viewshed, particularly from the wilderness. Again there is no comparison with the impacts to the view shed between the vehicle barrier and this pedestrian fence especially with size and scale.

Page 4-9, part 4.6.2, paragraph 2: As previously mentioned, please cite the information source used to create the Sonoran pronghorn range map. We do not agree with the boundaries as provided. Section 7 consultation needs to be initiated!

Page 4-11, part 4.7.2, and paragraph 1: We believe the environmental design measures to avoid adverse impacts to these significant historic boundary monuments are not sufficient to ensure that no adverse impacts will occur. The fence will exclude the monuments from NPS protection.

Also, please include the letter indicating SHPO concurrence with USBP's determination of "no affect to historic properties". It is not currently included in Appendix C.

OPCNM believes that the quality of the viewshed and the context of the historic border monuments will be adversely affected by the fence. An important feature of the historic border monuments is the view of the vast expanse of land on both sides of the border, a view that provides context for the border monuments. The impact of the fence on these values should be evaluated in this FEA.

Page 4-13, part 4.8.2, first paragraph: Instead of spraying water as a dust palliative, we recommend using a product similar to lignosulfonate. Not only a dust palliative, lignosulfonate will stabilize the road surface and reduce maintenance costs.

Page 4-15, part 4.10.2: Property value reduction is not of concern to the monument.

Page 4-16, part 4.12.2: As previously mentioned, we disagree with the conclusion that the aesthetic impacts would be insignificant. The comparison between trash/litter scatter and this proposed fence is not even close to being comparable. We can get the litter picked up and this impact is removed, not the same with the fence especially over monument hill.

Page 4-17, part 4.13.2: The construction contractor should be required to rinse concrete truck mixers and other equipment out side of the Roosevelt Reservation and the monument lands.

Page 5-2, table 5-1: The table and the ensuing evaluation should include all ongoing USBP, National Guard, and other border-related operations, such as checkpoints, observation towers, scouting sites, off-road vehicle travel, helicopter activities and other actions having environmental impacts that have not been included. One example is the re-opening and continued use of formerly closed roads in wilderness areas.

Page 5-3, Land use: Disagree with the statement that "alteration of 7 acres of land on the OPCNM would not be considered cumulatively significant as the OPCNM encompasses over 330,000 acres". OPCNM legislation or General Management Plan does not identify excess lands within the monument boundaries. If we wanted to parallel your statement to this project then the 65 miles of fence over Sonoyta Hill encompasses a similarly less percentage of the 225 miles of border fence that DHS is proposing to construct! It's not about the acreage lost but about the resources impacted on this small area due to this project. Soils: As previously mentioned, two soil types that are prone to accelerated erosion occur in the proposed project area. The writers may be incorrectly interpreting Natural Resource Conservation Service soil descriptions, which indicate a low erosion potential for these soils. When dirt roads are built on these soils, the high and nearly inescapable potential for erosion is widely known. Increasing the width of the road (and de-vegetated area), increased blading and increased vehicle traffic contribute to significant cumulative impacts. Also please address what will be done with spoils from ditches cut for the concrete footer.

Page 6-1, part 6.1: Please see previous comments about containing concrete rinsate from trucks/equipment.

Page 6-2, part 6.2: We believe that all of the techniques mentioned in this paragraph will be insufficient to reduce or eliminate the accelerated erosion and watershed instability caused by the fence. The accelerated erosion is likely to increase the frequency of road blading and general maintenance. Please provide a long-term plan for addressing this issue.

Page 6-2, paragraph beginning on page 6-2 and extending onto 6-3: The FEA states that a revegetation plan will be implemented by the USBP upon completion of construction activities. If the restoration plan is 'similar to' the one established for the vehicle barrier, it should include pre-construction activities, such as plant salvage. If the USBP implements a revegetation plan after construction is complete, salvage will no longer be an option. When does the USBP plan to consult with the NPS on a restoration plan? Also, who will be monitoring the construction footprint for 3 years after construction?

Page 6-3, part 6.5 Water Resources: Please see earlier comments on the NPS's contribution to the SWPPP.

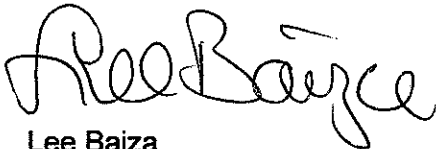
Please explain how the USBP will remove debris during a flood event without posing a safety hazard to the agent. When in flood stage, many washes can not be crossed safely with a vehicle, so vehicle access to flooding drainages will not be possible. Damage to resources will have occurred before debris will be removed.

Please explain where the flood debris will be placed. Normally, the debris would be washed into Mexico, which will no longer be an option.

Page 7-1, Agency Coordination: There is no indication that the Zuni Tribe has been contacted regarding this project. It is a federally recognized tribe having affiliation with OPCNM.

Please contact Lee Baiza (520-387-6489 extension 7500) if you would like to discuss these comments.

Sincerely,



Lee Baiza
Superintendent,
Organ Pipe Cactus National Monument

Cc: Robert Frankeberger, State Historic Preservation Officer
Peter L. Steere, Manager, Cultural Affairs Office, Tohono O'Odham Nation

**DRAFT ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED INSTALLATION OF 5.2 MILES OF PRIMARY FENCE
NEAR LUKEVILLE, ARIZONA
U.S. BORDER PATROL
TUCSON SECTOR**

Review Comments Matrix

| | | | | |
|---|-----------------|--|---|-------------------|
| PROJECT: | | AJO Final EA | DATE: | December 19, 2007 |
| PROJECT MILESTONE: | | Final Environmental Assessment for the Proposed Installation of 5.2 Miles of Primary Fence Near Lukeville Arizona | | |
| Response Legend: A - Concur; D = Do Not Concur; E - Exception; X - Delete Comment | | | | |
| # | Reviewer | Comment | Response | |
| 1 | L. Baiza | OPCNM can not support the inclusion of the proposed 7 acres over Sonoyta Hill outside of the Roosevelt Reservation for construction of a road to access proposed work. This November EA is inadequate as it lacks appropriate alternatives for construction, design of proposed work and mitigation to list a few of the concerns. It is within our mandate to protect these very important resources to this ecosystem and feel that with additional technology being discussed some fencing such as this proposed undertaking would not be necessary. The use of technology, such as the proposed SBInet (Southern Border Initiative network), should be evaluated with fence placement since they could support each other. The technological solution would cause much less long-term impacts to natural and cultural resources on OPCNM than would the proposed pedestrian fence. | D. While SBInet technology is a critical component of the Secure Border Initiative and an effective force multiplier that allows USBP to monitor large areas and deploy agents to where they would be most effective to apprehend cross-border violators, it does not provide a physical deterrent to illegal crossings. The area covered by this project has been determined (and re-confirmed) by USBP to be a high traffic area that requires the installation of a physical barrier (i.e. fence) to control illegal entry into the U.S. The construction of an access road is needed to build and maintain the fence. . | |

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| 2 | L. Baiza | The November 2007 Final EA states that the pedestrian fence would be ineffectual without SBInet and vice versa. Since SBInet and the pedestrian fence form the basis for the border enforcement strategy in the OPCNM area, these actions should be evaluated in one NEPA document and not evaluated separately. We believe the proposed alternatives will have a significant and long-term impact on resources managed by the NPS. | D. The impacts of other possible border security infrastructure (i.e. SBInet) are considered appropriately in the cumulative impacts analysis. If and when, other infrastructure is proposed for this area, appropriate NEPA analyses will be conducted... |
| 3 | L. Baiza | The proposed action in the Executive Summary and the Alternatives does not agree. The alternative mentions the requirement of a construction footprint of 150 which is a major attribute of this project and should be in the summary if that is the intent. | A. The executive summary has been revised to read, "Construction activities would remain within the 60-foot Roosevelt Reservation with the exception of the western most 0.65 miles. The western most 0.65 miles, which would be built over Sonoyta Hill, requires a construction footprint of 150 feet." |

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| 4 | L. Baiza | In our comments on the October 2007 draft EA, we asked that the design allows for continued maintenance of the existing vehicle barrier. The request does not appear to be addressed in the FEA therefore that responsibility will be shifted to U.S. Department of Homeland Security since there will be no immediate and safe access for our staff. NPS will continue to maintain the permanent vehicle barrier in areas outside of the pedestrian fence. | A. Due to the existing PVBs location relative to the border and its design characteristics, it is not possible to physically retrofit the existing PVBs as originally desired. Therefore, the pedestrian fence will be installed approximately 3 ft north of the existing PVBs. CBP agrees that the original vehicle barrier will become the operation and maintenance responsibility of CBP. |
| 5 | L. Baiza | The FEA repeatedly references the 2003 NPS FEA for the vehicle barrier. Although the 2003 EA is a convenient reference, it should not be used to describe the affected environment of the area that will be impacted by the proposed project. The pedestrian fence is proposed for only 5.2 miles, while the 2003 NPS FEA addresses impacts for a barrier more than 20 miles long and the construction differs immensely from a post and rail system to solid 10x15 foot panels. | D. The FEA correctly references the 2003 NPS document and complies with NEPA and CEQ recommendations to use this document for baseline information. The type and nature of construction and the equipment needed to complete the proposed activities are not considerably different from what was proposed to construct vehicle barriers. |

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| 6 | L. Baiza | References to resources at Quitobaquito are made throughout the document. Most of these should be removed, as the proposed project would not affect resources there and this site is remotely located from subject work area. | D. U.S. Fish and Wildlife Service specifically requested we discuss Quitobaquito, and how the project could impact the springs and its associated fauna. |
| 7 | L. Baiza | Page FONSI-5, Biological Resource: The revegetation plan that is mentioned to be completed after the construction activities should be reviewed and in place prior to the construction work. Additionally many elements missing such as what is being planned for all columnar cacti larger than 6 feet! | A. The revegetation plan will be comprehensive, completed in conjunction with input from the OPCNM and will be completed prior to the start of construction.. |

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| 8 | L. Baiza | Page FONSI-5, Cultural Resources: We wish to clarify that the professional archeological monitors will be provided by the U.S. Border Patrol (USBP). Also, please identify the three historic objects that lie within the proposed construction corridor that will be monitored. | A. The professional archeologist will be provided by the USBP. The historic objects to be monitored are discussed in the EA and consist of the three International Border Monuments (166, 167, 168) located in the project corridor. |
| 9 | L. Baiza | Page FONSI-5, Cultural Resources: Due to the amount of ground-clearing and digging involved with this project, we recommend that a professional archeological monitor be present for the entire extent of the project. | D. The entire project corridor has not only been surveyed by the NPS but also by Northland Research Inc. and GSRC. No cultural sites were identified within the project corridor during the original NPS surveys or the recent surveys completed by CBP's consultants. Therefore, CBP feels that professional archeological monitors are not needed for the entire project. However, in keeping with BMPs used by CBP across all projects, construction workers will be trained to recognize potential archeological resources and instructed to temporarily suspend construction activities until a qualified archeologist can evaluate the situation should a potential resource be encountered. |

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| 10 | L. Baiza | Page FONSI-5, Water Resources: If the Storm Water Pollution Protection Plan (SWPPP) requires a restoration plan, we request the opportunity to review and approve it. | D. The NPS will be provided an opportunity to review and comment on the SWPPP. The SWPPP will be completed by the Corps' contractor and will be reviewed/approved by CBP then submitted to the EPA/ADEQ. |
| 11 | L. Baiza | Page 1-3, part 1.2.3. Background: Please correct the statement that all of the construction activities for the PVB along OPCNM's southern boundary occurred within OPCNM. Most of the construction activities occurred within the 60-ft Roosevelt Reservation. | A. The EA will be revised to state that the PVB's were constructed in the 60-foot Roosevelt Reservation. |

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| 12 | L. Baiza | Page 2-3, part 2.3.1. Technology: The FEA justifies the need for a fence in the Lukeville area by stating that physical barriers are the most effective at preventing illegal border crossings in the more populated areas of the Tucson sector. This rationale is unsupported in the Lukeville/Sonoyta area, where many of the more intensively used illegal border crossing areas along the southern boundary of OPCNM are in the more unpopulated areas. | D. The USBP has determined that the Lukeville/Sonoyta area is an area where fence is necessary to secure the border relative to illegal crossings. |
| 13 | L. Baiza | Page 2-4, part 2.5 Summary: Table one states that the technological solution will not deter illegal pedestrian traffic, yet the USBP will be relying on this method to deter pedestrian traffic outside the pedestrian fence. Please explain. | D. Table 2-1 does not mention technology but rather discusses the No Action Alternative and the Proposed Action Alternative. Regardless, due to Federal legislation and through analysis of changing border security environment, the USBP has determined that the proposed project corridor is best suited for physical tactical infrastructure and not technology based infrastructure. Further, the lack of use of technology infrastructure versus physical infrastructure is adequately explained in Section 2.3.1 of the Final EA. |

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| 14 | L. Baiza | Pages 2-5 and 2-6, Table 2-2 Summary Matrix: Please see our comments on these items in the Affected Environment Section (Part 3.0). (1) Also in the unique and sensitive areas section; the comment regarding the “7 acres over Sonoyta Hill would change from NPS lands to USBP infrastructure” is incorrect. As was mentioned in the opening comments, the work and results of work will be articulated in a special use permit once all elements of NEPA are satisfied and will remain NPS lands. (2) Noise; the clatter/chafing between double layer panels will become quite pronounced especially with windy and alternatives need to be developed to correct this. (3) Aesthetics; Disagree that no significant impacts would occur and minimizing trash is expected to outweigh adverse impact. | (1) A. NPS would retain ownership of the 7 acres over Sonoyta Hill. CBP would assume responsibility for the maintenance of the access road. The EA will be revised accordingly. (2) D. The fence would be designed so that clattering/chaffing is not an issue. As was previously discussed with the contractor, USACE, CBP, and Mr. Lee Baiza of the OPCNM, the fence would be welded together to prevent and minimize any potential noise impacts due to the two panels clattering or chaffing. (3) D. It is CBP’s determination that no significant impacts to aesthetics would occur. The area is currently heavily degraded as depicted in the Photographs 3-1 and 3-2 of the Final EA. Additionally, the primary pedestrian fence would be built out of non-reflective materials in an effort to minimize aesthetic impacts. |
| 15 | L. Baiza | Page 3-2, part 3.2 Soils: We recommend that the engineering plans consider the salinity of the soils in a proportion of the construction zone. Due to the proximity of the area to the Rio Sonoyta, these soils contain a high concentration of sodium, which can corrode concrete. Salinity is indicated by the presence of saltbush species <i>Atriplex polycarpa</i> and <i>A. linearis</i> , both salt-tolerant species. | A. The design of the fence has taken into account what is necessary to ensure that the fence is stable, strong, and built for longevity. Additionally, according to the NRCS’s Web Soil Survey all of the soils in the project have a “low” rating in regards to corrosion of concrete. |

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| 16 | L. Baiza | <p>Page 3.3.1. Vegetation Communities: Please correct the FEA statements about vegetation. The vegetation within the project corridor is a subset of the vegetation described in the 2003 NPS final EA for the vehicle barrier. <i>Atriplex polycarpa</i>, <i>A. linearis</i>, <i>Larrea divaricata</i> ssp. <i>tridentata</i> are the dominant species on the bottoms and dissected hills. This vegetation type is uncommon on OPCNM, occurring less than 2-3 miles of the international boundary. This vegetation type is bearing the brunt of environmental impacts due to border-related activities on OPCNM.</p> <p>Dominant species in the xeroriparian corridors in the proposed project area include <i>Prosopis velutina</i>, <i>Olneya tesota</i>, <i>Parkinsonia floridum</i>, <i>Condalia globosa</i>, <i>Ambrosia ambrosioides</i>, and various <i>Lycium</i> species. On Monument Hill (Sonoyta Hill), dominant plant species include <i>Parkinsonia floridum</i>, <i>Olneya tesota</i>, <i>Prosopis velutina</i>, <i>Stenocereus thurberi</i>, <i>Carnegiea gigantea</i>, <i>Fouquieria splendens</i>, <i>Larrea divaricata</i>, <i>Lycium</i> species, and <i>Ambrosia deltoidea</i>.</p> | <p>A. The document was revised to stipulate that saltbush (<i>Atriplex</i> sp.) is common throughout most the project corridor, especially east of the POE. Most of the other species mentioned in the comment were included in Section 3.3.1 of the Final EA and incorporated by reference from the 2003 NPS EA.</p> |

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| 17 | L. Baiza | Page 3-2, Part 3.3.2. Wildlife: OPCNM considers the cactus ferruginous pygmy owl (<i>Glaucidium brasilianum cactorum</i>) to be a species of management concern. Suitable habitat occurs in the proposed project area and should be addressed in this final EA. | A. Information regarding the cactus ferruginous-pygmy owl has been incorporated into the document. The document now reads in Section 4.6.2, "Additionally, the cactus ferruginous-pygmy owl has the potential to exist in the project corridor. However, the habitat in the project corridor is extremely limited and classified as ranging from poor to moderate with the exception of the western slope of Sonoyta Hill (NPS 2003). Therefore, due to the previously disturbed nature of some of the project corridor in conjunction with the limited quality habitat available, the Proposed Action Alternative is not expected to create significant impacts to the owl." |
| 18 | L. Baiza | Page 3-3, part 3.3.3. Non-native and Invasive Species: Rather than identify the most common species on OPCNM, the FEA should identify the invasive species in the proposed project area. For example, <i>Mesembryanthemum</i> does not occur in the project area, but <i>Cynodon dactylon</i> does. | A. The document has been revised to state, ".....More specifically, the common non-native plant located in the project corridor is Bermuda grass (<i>Cynodon dactylon</i>) (Baiza 2007)." |

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| 19 | L. Baiza | <p>Page 3-5, part 3.6 Protected Species: This section does not address sensitive species that require special management attention but are not protected by the Endangered Species Act. A small population of <i>Peniocereus striatus</i>, which is known from a few locations in the U.S., is located in the proposed project corridor. We recommend avoiding the disturbance of any plants in the Roosevelt Reservation. If avoidance is not possible, then salvage should be overseen by OPCNM.</p> <p>The cactus ferruginous pygmy owl (<i>Glaucidium brasilianum cactorum</i>) is another species that is specially managed by OPCNM. Potential habitat occurs in the construction zone, and the breeding period overlaps with the proposed construction period. Surveys should be performed and the impacts to this species should be evaluated.</p> | <p>D. All vegetation will be removed from with the Roosevelt Reservation. However, as part of the revegetation plan, CBP would allow for salvage by NPS of <i>Peniocereus striatus</i> within the project corridor as was done for the implementation of the NPS Vehicle Barrier project.</p> <p>D. See response to comment number 17. In addition, protocol surveys cannot be performed within the timeframe necessary. Furthermore, CFPO have not been reported by USFWS or NPS staff from this area.</p> |
| 20 | L. Baiza | <p>Page 3-7, part 3.6.1.2. Lesser long-nosed bat: Sonora barrel cactus and California barrel cactus are not columnar cacti and are not used as a food resource by bats. Do not include them in the count of columnar cacti.</p> | <p>E. Columnar cacti is a term used to describe the shape of the cacti. Regardless, the Sonora barrel cactus and California barrel cactus have been removed from the document.</p> |

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| 21 | L. Baiza | Page 3-8, Figure 3-1 Map of Sonoran pronghorn range: Please cite the information source used to prepare this map. OPCNM does not agree with the stated range boundaries. | D. The map is accurately sourced in the Final EA. |
| 22 | L. Baiza | Page 3-9, part 3.6.1.3 Acuña Cactus: Seven (not five) populations of acuña cactus are known; the Pima County 2001 reference is outdated. This subspecies is not known to occur on limestone; please remove the reference. | A. The document was revised as suggested. |

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| 23 | L. Baiza | <p>Page 3-12, part 3.9 Water Resources: Although they are not perennial streams, it is likely that the larger drainages in the proposed project area are regulated by Section 404 of the Clean Water Act. (1) Please indicate if the drainages in the project area have been evaluated to determine if they are jurisdictional waters. Clarify the criteria used to determine the 16 intermittent streams and also identify locations. (2) There are easily additionally another 24 streams that should also be evaluated. (3) Please clarify where the water for the project (1.7 million gallons-3.7 million gallons /referenced on page 4.1) will come from. There is discussion regarding groundwater recharge rates and mention hauling water from Ajo or Why. If this is not the case and water is purchased locally from the property owner at Lukeville, the drawdown on this well needs to be monitored daily while in production. In addition we are requesting that both domestic wells that serve our infrastructure 4 miles due north near our Visitor Center also be monitored for drawdown. There is immense concern for extensive water and the possibility of effects on our two wells.</p> | <p>(1) A. CBP has assumed that the 16 streams which cross the project corridor are considered jurisdictional although no formal verification has occurred. Additionally, as stated in Section 4.9.2 of the Final EA, "All appropriate CWA Section 404 Permits from the U.S. Army Corps of Engineers (USACE) Los Angeles District Regulatory Branch, as well as Section 401 Water Quality Certifications from the Arizona Department of Environmental Quality, would be obtained prior to any fill material being placed in potential jurisdictional waters of the U.S."</p> <p>(2) D. CBP respectfully disagrees based on biological field surveys.</p> <p>(3) E. The specific source of water is not yet known. However, as indicated in Section 4.9.2 of the Final EA the water will be obtained from municipal sources located in either Why, Ajo, or Gila Bend, Arizona. No monitoring of wells on the OPCNM would occur because no impacts to OPCNM groundwater sources would occur as a result of the Proposed Action.</p> |

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| 24 | L. Baiza | Page 3-13, last sentence: The correct spelling of Tibbets is Tibbitts. | A. The document was revised as requested. |
| 25 | L. Baiza | Page 4-1, part 4.0 Environmental Consequences: Disagree with the comment that this "EA describes the potential permanent impacts". How can this be possible when it's also stated that the design/build process will be utilized? How can the potential for impact are assessed if you don't know the design not only of the fence but how and where it will be constructed. In most cases from my experience it's difficult to evaluate impact of a project without final design incorporated in the EA process. | D. The EA does address potential impacts on a worse case scenario. The conceptual design footprint was developed by the design engineers and they believe this will be the maximum footprint needed to accomplish the proposed project. All other impacts would remain within the 60 foot Roosevelt Reservation. |

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| 26 | L. Baiza | Page 4-2, part 4.1.2 Alternative 2, second paragraph: (1) It is predictable that the proposed fence will cause indirect impacts. If the fence performs as expected and USBP agents are deployed to areas without the pedestrian fence, then OPCNM predicts that additional enforcement-related off-road driving will occur in those areas. These environmental impacts should be included in this document. (2) The change from NPS lands to USBP infrastructure and enforcement operations was discussed previously. Support the statement that a Special Use permit would need to be obtained from NPS for this action of using the additional 7 acres outside the Roosevelt Reservation prior to construction. | (1) D. CBP disagrees with the assertion that increased off-road activities would occur as a result of agents being able to be deployed to areas without pedestrian fence. In reality, the agents working east and west of the fence boundaries will act as a deterrent and this deployment would be expected to curtail illegal traffic in those areas lacking fence. Also, as stated numerous times throughout the document, the illegal activities of cross-border violators are solely up to them and outside of the control of USBP/CBP. (2) A. CBP would seek a special use permit from NPS to construct the fence and road outside the Roosevelt Reservation.. |
| 27 | L. Baiza | Page 4-3, part 4.2.2. Alternative 2, first paragraph: OPCNM believes the proposed action would have widespread, long-term and significant impacts on soils, with special emphasis on the Holocene, sandy loam alluviums of the valley bottoms. Ground disturbing activities that cause soil structure loss and deflation (e.g. disturbance, compaction, blading) usually trigger accelerated erosion that can not be treated with infrastructure, including best management practices. Gilman and Antho Series soils are the two soil types most prone to accelerated erosion on OPCNM. A significant portion of the proposed action occurs on these soils. Once | D. CBP will coordinate the SWPPP and the revegetation plan with OPCNM. The contractor would have to consider soil conditions and construct the fence/road accordingly. USBP would be responsible for post-construction maintenance, including erosion control and would work closely with NPS to ensure erosion is controlled. |

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| | | accelerated erosion is triggered, the resulting watershed instability will cause deep gullying on Gilman and Antho soils and will have far-reaching implications in the affected watersheds. These impacts need to be considered in the FEA and in the project design. Fence design will be a critical part of minimizing impacts on soils. Since most of the impacts will occur on OPCNM, the NPS should be closely involved with the SWPPP. | |
| 28 | L. Baiza | Page 4-4, part 4.3.1.2 Alternative 2: As previously mentioned, the saltbush vegetation association is uncommon on OPCNM and is regionally threatened. A significant portion of the project is in this vegetation type. | D. Saltbush vegetation associations are common not only on the OPCNM but also the Cabeza Prieta National Wildlife Refuge, Tohono O'odham Nation, and the rest of southern Arizona. No significant impacts would occur to this vegetation association with the implementation of this project. |

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| 29 | L. Baiza | Page 4-5, part 4.3.2.2, first paragraph: Here and elsewhere, please correct the statement that most of the project corridor has been previously disturbed. Most of the Roosevelt Reserve over Monument Hill has not been disturbed, and about half of the Roosevelt Reserve in the remaining section has not been disturbed. | A. The document has been revised to read: "Although approximately 45 acres would be permanently impacted from the Proposed Action Alternative, these impacts would be considered negligible, since much of the project corridor (17 acres) has been previously disturbed, and the remainder has limited and somewhat disturbed vegetation." |
| 30 | L. Baiza | Page 4-5, part 4.3.2.2, third paragraph: Please provide citations for the sentence beginning, "Habitat fragmentation typically affects....". OPCNM continues to disagree with the statement that the fence will have no significant adverse effects on wildlife. | A. The document has been revised to include the following citation, Gilpin, M.E. and Hanski, I. Metapopulation Dynamics: Empirical and Theoretical Investigations. London: Linnaean Society of London and Academic Press; 1991. Additionally, the development and residences on the Mexico side of the project corridor currently fragment habitat. Therefore, the addition of the proposed fence would not likely create significant impacts. |

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| 31 | L. Baiza | Page 4-6, part 4.3.3.2: The project corridor, particularly Monument Hill, will not be regularly patrolled by a person qualified to identify and respond to non-native, invasive species. Will qualified USBP monitors be monitoring the construction zone in perpetuity? Also, please provide citations that document the statement that “many invasive plant propagules are transported into the U.S. on clothing of IAs.” We are aware of no such studies. | <p>D. CBP is willing to hire a qualified person/firm to monitor/survey for invasive species for a period of 3-yrs following completion of the construction activities.</p> <p>A. This citation, “(INS 2002)” has been added to the document. In the references section of the Final EA this reference as been added, “INS, U.S. Border Patrol, U.S. Department of Interior, U.S. Forest Service, U.S. Environmental Protection Agency. 2002. Report to the House of Representatives Committee on Appropriations on Impact Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona.”</p> |
| 32 | L. Baiza | Page 4.7, part 4.4.2, first paragraph: This paragraph has several conflicting statements regarding access that should be corrected. A special use permit from NPS would not be needed if only the Roosevelt Reservation was used during construction. | <p>A. The document was revised to read, “A special use permit from NPS would be needed to access any areas outside of the Roosevelt Reservation. This would be obtained prior to construction activities.”</p> |

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| 33 | L. Baiza | Page 4-7, part 4.4.2, paragraph 2: We disagree with the statement that the impacts of the proposed project are outweighed by the impacts of illegal activity. We believe the permanent direct impacts and the long-lasting indirect impacts of the pedestrian fence will be far greater than the relatively impermanent impact of illegal border activities. | D. See Section 4.4.2 of the Final EA for the full analysis of potential impacts to Unique and Sensitive Areas as a result of the Proposed Action Alternative. In addition, OPCNM has stated (and cited in the Section 4.1.2 of the Final EA) that certain areas of OPCNM have been closed to visitors due to illegal traffic, which affects not only aesthetic qualities and natural resources of the OPCNM, but also the function of the OPCNM. |
| 34 | L. Baiza | Page 4-8, part 4.5.2, paragraph 1: We agree that noise due to construction of the fence would be temporary. (1) We are more concerned with constant noise/clatter from the double mesh segments on the panels especially with natural wind action. (2) The EA needs to include an evaluation of how the fence and the access road over Monument Hill will adversely, permanently and significantly affect the viewshed, particularly from the wilderness. Again there is no comparison with the impacts to the view shed between the vehicle barrier and this pedestrian fence especially with size and scale. | (1) A. See response to comment number 14, part 2 (2) A. In Section 4.5.2 of the Final EA it is stated that adverse impacts would occur to Wilderness due to viewshed impacts. However, the Final EA has been revised to provide exhibits that illustrate how the fence will look from the wilderness area. |

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| 35 | L. Baiza | Page 4-9, part 4.6.2, paragraph 2: As previously mentioned, please cite the information source used to create the Sonoran pronghorn range map. We do not agree with the boundaries as provided. Section 7 consultation needs to be initiated! | E. See response to comment number 21. Additionally, as can be seen in the Final EA, Appendix C, first page, consultation with the USFWS has been initiated and will continue to occur. |
| 36 | L. Baiza | <p>Page 4-11, part 4.7.2, and paragraph 1: We believe the environmental design measures to avoid adverse impacts to these significant historic boundary monuments are not sufficient to ensure that no adverse impacts will occur. The fence will exclude the monuments from NPS protection.</p> <p>Also, please include the letter indicating SHPO concurrence with USBP's determination of "no affect to historic properties". It is not currently included in Appendix C.</p> <p>OPCNM believes that the quality of the viewshed and the context of the historic border monuments will be adversely affected by the fence. An important feature of the historic border monuments is the view of the vast expanse of land on both sides of the border, a view that provides context for the border</p> | <p>D. The monuments will remain accessible via man gates to be installed per the CBP/ USBWC MOA and RFP.</p> <p>D. See the Final EA, on page 121 and 122 of Appendix C. The letter is dated June 8, 2007.</p> <p>D. The fence would be designed so as not to impede the function, value, or stability of the border monuments. Further, as discussed in the Final EA, the Arizona SHPO has concurred with CBP's determination that no historic properties would be impacted by the proposed action.</p> |

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| | | monuments. The impact of the fence on these values should be evaluated in this FEA. | |
| 37 | L. Baiza | Page 4-13, part 4.8.2, first paragraph: Instead of spraying water as a dust palliative, we recommend using a product similar to lignosulfonate. Not only a dust palliative, lignosulfonate will stabilize the road surface and reduce maintenance costs. | A. Water would be used during construction for dust suppression and compaction. Soil stabilizers, such as lignonsulfate, will be applied after construction is complete to provide a more stable driving surface. |

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| 38 | L. Baiza | Page 4-15, part 4.10.2: Property value reduction is not of concern to the monument. | A. Noted. |
| 39 | L. Baiza | Page 4-16, part 4.12.2: As previously mentioned, we disagree with the conclusion that the aesthetic impacts would be insignificant. The comparison between trash/litter scatter and this proposed fence is not even close to being comparable. We can get the litter picked up and this impact is removed, not the same with the fence especially over monument hill. | D. See response to comment number 14, part 3. |

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| 40 | L. Baiza | Page 4-17, part 4.13.2: The construction contractor should be required to rinse concrete truck mixers and other equipment out side of the Roosevelt Reservation and the monument lands. | A. The document was revised in Section 6.5 to read, "Additionally, all concrete trucks will be washed outside of the project corridor as well as OPCNM lands." |
| 41 | L. Baiza | Page 5-2, table 5-1: The table and the ensuing evaluation should include all ongoing USBP, National Guard, and other border-related operations, such as checkpoints, observation towers, scouting sites, off-road vehicle travel, helicopter activities and other actions having environmental impacts that have not been included. One example is the re-opening and continued use of formerly closed roads in wilderness areas. | D. The past, present, and reasonably foreseeable USBP actions within the region have been included in Table 5-1 and evaluated in the Final EA. |

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| 42 | L. Baiza | <p>Page 5-3, Land use: Disagree with the statement that “alteration of 7 acres of land on the OPCNM would not be considered cumulatively significant as the OPCNM encompasses over 330,000 acres”. OPCNM legislation or General Management Plan does not identify excess lands within the monument boundaries. If we wanted to parallel your statement to this project then the 0.65 miles of fence over Sonoyta Hill encompasses a similarly less percentage of the 225 miles of border fence that DHS is proposing to construct! It’s not about the acreage lost but about the resources impacted on this small area due to this project.</p> <p>Soils: As previously mentioned, two soil types that are prone to accelerated erosion occur in the proposed project area. The writers may be incorrectly interpreting Natural Resource Conservation Service soil descriptions, which indicate a low erosion potential for these soils. When dirt roads are built on these soils, the high and nearly inescapable potential for erosion is widely known. Increasing the width of the road (and de-vegetated area), increased blading and increased vehicle traffic contribute to significant cumulative impacts. Also please address what will be done with spoils from ditches cut for the concrete footer.</p> | <p>D. CBP analysis concludes that the use of less than 0.0001 percent of the OPCNM would not constitute a significant impact. The additional 225 miles of fence are identified and their impacts to various resources described in the cumulative impact section.</p> <p>D. According to NRCS’s Web Soil Survey, the soils in the project corridor, in particular, the Antho and Gilman soils have a slight erosion rating. Included is the NRCS’s explanation of what the ratings mean,</p> <p>“The ratings in this interpretation indicate the hazard of soil loss from off-road and off-trail areas after disturbance activities that expose the soil surface. The ratings are based on slope and soil erosion factor K. The soil loss is caused by sheet or rill erosion in off-road or off-trail areas where 50 to 75 percent of the surface has been exposed by logging, grazing, mining, or other kinds of disturbance.</p> <p>The ratings are both qualitative and numerical. The hazard is described as "slight," "moderate," "severe," or "very severe." A rating of "slight" indicates that erosion is unlikely under ordinary climatic conditions; "moderate" indicates that some erosion is likely and that erosion-control measures may be needed; "severe" indicates that erosion is very likely and that erosion-control measures, including revegetation of bare areas, are advised; and "very severe" indicates that significant erosion is expected, loss of soil productivity and off-site damage are likely, and erosion-control measures are costly and generally impractical.”</p> |

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| 43 | L. Baiza | Page 6-1, part 6.1: Please see previous comments about containing concrete rinsate from trucks/equipment. | A. See response to comment number 40. |
| 44 | L. Baiza | Page 6-2, part 6.2: We believe that all of the techniques mentioned in this paragraph will be insufficient to reduce or eliminate the accelerated erosion and watershed instability caused by the fence. The accelerated erosion is likely to increase the frequency of road blading and general maintenance. Please provide a long-term plan for addressing this issue. | D. The design of the fence would be such that it does not accelerate erosion or watershed instability. As discussed in response to comment number 42, the soils in the project corridor are considered to have a slight erosion hazard. CBP will continually monitor road and fence conditions and will continually perform required maintenance to repair and mitigate erosion. |

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| 45 | L. Baiza | Page 6-2, paragraph beginning on page 6-2 and extending onto 6-3: The FEA states that a revegetation plan will be implemented by the USBP upon completion of construction activities. If the restoration plan is 'similar to' the one established for the vehicle barrier, it should include pre-construction activities, such as plant salvage. If the USBP implements a revegetation plan after construction is complete, salvage will no longer be an option. When does the USBP plan to consult with the NPS on a restoration plan? Also, who will be monitoring the construction footprint for 3 years after construction? | A. See response to comment number 7. |
| 46 | L. Baiza | <p>Page 6-3, part 6.5 Water Resources: Please see earlier comments on the NPS's contribution to the SWPPP.</p> <p>Please explain how the USBP will remove debris during a flood event without posing a safety hazard to the agent. When in flood stage, many washes can not be crossed safely with a vehicle, so vehicle access to flooding drainages will not be possible. Damage to resources will have occurred before debris will be removed.</p> <p>Please explain where the flood debris will be placed. Normally, the debris would be washed into Mexico, which will no longer be an option.</p> | <p>A. See response to comment number 10.</p> <p>D. CBP is in the process of establishing a long-term maintenance contract that will maintain the roads and fence. Debris that collects on the fence will be removed on a regular basis. For safety reasons, we cannot commit to the removal of debris during a flood event.</p> <p>E. Any organic debris would be placed in areas that are to be revegetated and used as a potential seed source for natural revegetation. All other debris would be removed from the project corridor and disposed of properly.</p> |

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| 47 | L. Baiza | Page 7-1, Agency Coordination: There is no indication that the Zuni Tribe has been contacted regarding this project. It is a federally recognized tribe having affiliation with OPCNM. | E. Consultation was conducted with all tribes that have historically expressed an interest in USBP projects in southern Arizona. The SHPO did not indicate that a tribe was omitted; however, the Zuni will be consulted with accordingly. |



United States Department of the Interior

FISH AND WILDLIFE SERVICE

P.O. Box 1306

Albuquerque, New Mexico 87103

In Reply Refer To:

FWS/R2/NWRS-SUPV/033896

DEC 11 2007

Mr. Robert F. Janson
Acting Executive Director
Asset Management
U.S. Customs and Border Protection
Washington, D.C. 20229

Dear Mr. Janson:

Thank you for your letters, dated October 18, 2007, inviting the U.S. Fish and Wildlife Service (Service) to participate as a cooperating agency in development of Supplemental Environmental Assessments (SEA) for proposed construction, maintenance, and operation of tactical infrastructure related to securing various sectors of the U.S./Mexico international border. The Service is committed to continuing a cooperative relationship with U.S. Customs and Border Protection (CBP) to address issues in the vicinity of the border related to security and conservation of natural resources. Towards that goal, we will continue to cooperatively develop best management practices and standard operating procedures with CBP personnel in the various sectors in an effort to minimize environmental impacts associated with border protection.

We appreciate your invitation for the Service to serve as a cooperating agency in completion of National Environmental Policy Act documentation required to assess environmental concerns related to development and operation of border tactical infrastructure. Even though the Service is a Federal agency with land management responsibilities for natural resources that will be affected by the proposed action, we have concluded given the mission of the Service, that it would not be appropriate to assume the role of a cooperating agency in this planning process.

Sincerely,

Regional Director



United States Department of the Interior

U.S. Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951

Telephone: (602) 242-0210 Fax: (602) 242-2513



In Reply Refer to:

AESO/SE
22410-2008-F-0011

October 19, 2007

Mr. Eric W. Verwers, Director
Construction and Support Office
Department of the Army
Fort Worth District, Corps of Engineers
P.O. Box 17300
Fort Worth, Texas 76102-0300

Dear Mr. Verwers:

Thank you for your correspondence (electronic mail) of October 12, 2007, requesting formal consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). We received your original letter of August 14, 2007, requesting our concurrence that the Installation of 5.2 Miles of Primary Fence near Lukeville, Border Patrol (BP) Tucson Sector Project, Pima County, Arizona (proposed project), may affect, but is not likely to adversely affect, the federally endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*) and will have no effect on the endangered Sonoran pronghorn (*Antilocapra americana sonoriensis*). On October 9, 2007, we held a conference call with Chris Ingram and Josh McEnany of Gulf South Research Corporation, to discuss the project's effects on the Sonoran pronghorn and lesser long-nosed bat. During the call, you revised your determination and concluded that the project may result in adverse effects to both species and that formal section 7 consultation is warranted. This determination was confirmed in your October 12, 2007, electronic mail.

The consultation concerns the possible effects of your proposed project, as described in the "Draft Environmental Assessment for the Proposed Installation of 5.2 Miles of Primary Fence near Lukeville, Arizona, US. Border Patrol (BP) Tucson Sector" (DEA). You have determined that the project may adversely affect the endangered Sonoran pronghorn and the endangered lesser long-nosed bat.

To complete our Biological Opinion (BO) on project effects to the Sonoran pronghorn and lesser long-nosed bat, we request that you provide us with the following information (we will include your response in the "description of the proposed action" in the BO):

- A complete description of project timing (i.e., when project construction will commence; how long construction will take; how often fence and road maintenance will occur and when; etc.).
- A complete description of the fence design and fence maintenance techniques and schedule. We recommend gaps (maximum width possible) be incorporated into the fence design to allow for passage of small and medium-sized animals. According to the Research and Endangered Species Coordinator at Organ Pipe Cactus National Monument (OPNCNM), after significant rainfall events, debris becomes lodged on the OPNCNM permanent vehicle barriers (PVBs) (six inch-wide posts on five-foot centers), which creates a dam that causes water to pool upstream (up to 100+ feet) and laterally (up to 300+ feet) (electronic mail from Tim Tibbits, October 4, 2007). Therefore, it would be helpful to specifically describe how the pedestrian fence will be designed in wash areas to, as stated in the DEA, ensure proper conveyance of floodwaters and to eliminate the potential to cause backwater flooding on either side of the border. Describe how and how often the fence and adjacent road will be maintained. Describe in detail how and how often the fence will be monitored and maintained during rainfall events to ensure it is not impeding proper water conveyance; additionally include who will be responsible for these activities.
- An analysis of how the project (both the fence and associated vegetation clearing) will affect hydrology and erosion in the area and how potential increases in erosion and changes in hydrology will affect resources, such as columnar cacti.
- A statement clarifying if water will be used for fence construction. If it will be used, please describe from where the water will be taken. As we stated in our July 10, 2007, letter regarding this project, we do not recommend any groundwater be extracted from the area for project purposes, as any groundwater pumping could result in degradation or loss of critical habitat and mortality of Quitobaquito pupfish and other wetland species at the Quitobaquito pond.
- A description of the approximate number of saguaros and organ pipe cactus that will be impacted on Sonoyta Hill and those that will be impacted in the other project areas. Based on our October 9, 2007, conversation with Gulf South Research Corporation, most impacts to columnar cacti will occur on Sonoyta Hill. To greatly reduce project impacts to columnar cacti and consequently to the lesser long-nosed bat, we recommend that the fence not be constructed over Sonoyta Hill. If the fence is built over Sonoyta Hill, we recommend that this proposed project footprint be reduced to the greatest extent possible.
- A complete description of project access roads and use of these roads. Page 2-3 of the DEA states that access would include use of the existing patrol road adjacent to the U.S.-Mexico border as well as South Puerto Blanco and the north-south access roads constructed by the National Park Service (NPS). Please clarify the north-south access roads to which you are referring. The only north-south access road of which we are aware is the one located about 0.75 mile west of Lukeville (to the east of Sonoyta Hill) that passes through the old Dowling Ranch area and connects South Puerto Blanco Drive to the border road. This road, however, is an old recovering ranch road, neither constructed nor used by NPS. Though its

construction and use has never undergone section 7 consultation, it is currently used by the BP. If this is the road to which you are referring, please provide us with a description of the road and adjacent area (size of the road, vegetation community through which the road passes, etc.) and describe the proposed use of the road during project-related activities (i.e., how often it will be used by BP or contractors during project construction, if it will be used as an access road to conduct fence maintenance, if it will be used for patrol purposes associated with the proposed project). Because construction and use of the road by BP has not been previously consulted on, this will be included as part of the description of your proposed action in our BO. Additionally, please describe the proposed use of all other access roads associated with this project. Provide an analysis of the effects to Sonoran pronghorn and lesser long-nosed bat from use of these roads. We recommend including in this proposed action a provision that all project-related personnel observe the NPS posted speed limit of 25 miles per hour in OPCNM during all project construction and maintenance-related activities.

- An analysis of possible indirect effects to Sonoran pronghorn and lesser long-nosed bat from potential shifts in illegal traffic and ensuing law enforcement caused by the installation of the fence. It is likely that shifts will occur to the west of the fence because this area is easier to access from Mexico, due to its close proximity to Highway 2, than the area to the east of the eastern end of fence. To minimize potential impacts to Sonoran pronghorn, we recommend that interdiction efforts be focused along the border road, to the west of the fence, to prevent illegal traffic from entering prime Sonoran pronghorn habitat in western OPCNM and eastern Cabeza Prieta National Wildlife Refuge.
- A detailed cactus salvage plan or written agreement among Army Corps of Engineers (ACOE) or BP, FWS, and NPS that a detailed salvage plan will be developed with and approved by the NPS by a date agreed to by NPS. As stated in the DEA, the revegetation plan established by NPS for the construction of the PVBs on OPCNM will be implemented within the project corridor upon completion of construction activities. We recommend that the NPS plan be used as a template for your plan; however, a detailed salvage plan should immediately be developed with (or by – see below) and approved by OPCNM. The plan should address: 1) how (techniques to be used) the columnar cacti will be salvaged, including whether the cacti will be relocated to a temporary holding facility to be stabilized for a year before being re-planting, as OPCNM did; 2) where the cacti will be placed; 3) what the success criteria will be and what actions will be taken should the criteria not be met; and 4) how and how often monitoring will be done. Furthermore, please explain who will be responsible for developing and implementing the final plan. We recommend funding be provided to OPCNM to develop and implement the plan if they are able to do so. If they are not, we recommend that a qualified consultant develop and implement the plan in accordance with OPCNM's guidance.

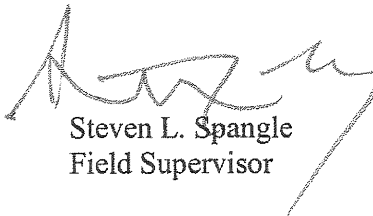
Section 7 allows us up to 90 calendar days to conclude formal consultation with your agency and an additional 45 calendar days to prepare our biological opinion (unless we mutually agree to an extension). The consultation period began on October 12, 2007, the date you requested formal consultation. However, we will not be able to complete our Biological Opinion until we receive the information we requested above. Because you have requested us to expedite this

consultation for the benefit of Homeland Security, we expect to provide you with our draft biological opinion no later than 30 days after receipt of the above-requested information.

We have assigned log number 22410-2008-F-0011 to this consultation. Please refer to that number in future correspondence on this consultation. As a reminder, the Act requires that after initiation of formal consultation, the Federal action agency may not make any irreversible or irretrievable commitment of resources that limits future options. This practice insures agency actions do not preclude the formulation and implementation of reasonable and prudent alternatives that avoid jeopardizing the continued existence of endangered or threatened species or destroying or adversely modifying their critical habitats.

We encourage you to coordinate the review of this project with the Arizona Game and Fish Department and OPCNM. In keeping with our trust responsibilities to Native American Tribes, by this letter we notify the Tohono O'Odham Nation, which will be interested or affected by this proposed action and encourage you to invite the Nation and the Bureau of Indian Affairs to participate in this review process. Thank you for your continued coordination efforts. If you have questions or concerns about this consultation or the consultation process in general, please contact Erin Fernandez at (520/670-6150 x238) or Jim Rorabaugh at (520/670-6150 x230).

Sincerely,



Steven L. Spangle
Field Supervisor

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM (ARD-ES)
(Attn: Brian Millsap)
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
Regional Supervisor, Arizona Game and Fish Department, Yuma, AZ
Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Superintendent, Organ Pipe Cactus National Monument, Ajo, AZ
Refuge Manager, Cabeza Prieta National Wildlife Refuge, Ajo, AZ
Chairperson, Tohono O'Odham Nation, Sells, AZ
Gulf South Research Corporation, Baton Rouge, Louisiana (Attn: Chris Ingram)

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**TOHONO O'ODHAM NATION
NATURAL RESOURCES DEPARTMENT
WILDLIFE AND VEGETATION MANAGEMENT PROGRAM**

PO Box 837, Sells, Arizona 85634 Phone: 520.383.1513 Fax: 520.383.3377 e-mail: karen.howe@tonation-nsn.gov



October 15, 2007

Eric W. Verwers, Director (by regular and e-mail)
Engineering and Construction Support Office
Department of the Army
Fort Worth District, Corps of Engineers
P.O. Box 17300
Fort Worth, Texas 76102-0300

Re: Draft Environmental Assessment for the Proposed Installation of 5.2 miles of Primary Fence
Near Lukeville, Arizona, U.S. Border Patrol Tucson Section

Dear Mr. Verwers:

The Wildlife and Vegetation Management Program (WVMP) of the Tohono O'odham Nation (Nation) would like to provide to you our comments on the above referenced project (DEA).

The Nation shares its' western boundary with Organ Pipe Cactus National Monument (OPCNM) which encompasses the project area. Due to this proximity impacts from this project may directly, and indirectly, affect the Nation's biological resources.

As a summary to the entire document the draft Finding of No Significant Impact (FONSI) will provide the basis for most of our comments which are as follows:

1. Page FONSI-2, Alternatives. Only two alternatives are presented for this project. We feel this is inadequate for the stated purpose and need of this project especially in regard to mitigation for permanent impacts to wildlife corridors that a fence would present. Other alternatives could take into account different styles of fence as well as placement of gaps to provide for large wildlife movement.
2. Page FONSI-2, Alternative 2. Stated in this paragraph as well as in many places within the DEA is that "the final design would be developed by the design/build contractor." If this is the case, this document is moot because impacts to the environment cannot be thoroughly assessed and addressed until the final design is known.
3. Page FONSI-2 & -3, Environmental Consequences. The impacts to wildlife movement across the international boundary are characterized as minimal. Are there studies that have been documented/written to support this statement? If so, these need to be referenced.

The generalization of the minimization of indirect adverse affects does not take into account that increased USBP action and the affect of additional agents in these areas will most likely add to the impacts, especially IA apprehensions in undisturbed and wilderness areas on the Nation to the east and the OPCNM and Cabeza Prieta National Wildlife Refuge (CPNWR) to the west. The statement that illegal pedestrian traffic impacts are “unknown, if, when, or where this shift in traffic may occur” is undermined by the assertion that “wildlife would also still be able to migrate across. . .the border either to the east or west of the project footprint terminus” (Section 4.4.2.2, page 4-5). If a determination can be made for migratory adaptability for wildlife then that would hold true for pedestrian traffic as well and so can be a “known” quantity where this assertion is made throughout the DEA. Flow of IA foot traffic will find the areas of least resistance in the surrounding lands.

4. Page FONSI-3, Environmental Design Measures. Within the FONSI and text of the DEA (Sec. 6.0 Environmental Design Measures) there is no mention of preventive measures to prevent initial invasive species establishment, such as hosing down equipment, vehicles, etc. that provide opportunities for invasive species to be brought to the construction corridor.
5. Page FONSI-4, Biological Resources. See comment 4 above.
6. Page FONSI-4, Water Resources. We appreciate the acknowledgement that work conducted during times of heavy rains greatly impacts the Sonoran Desert environment and that work will cease during those times.

As discussed in Section 4.9, pages 4-12, -13, the water source for construction purposes is unknown making it problematic to assess what local impacts may occur if groundwater is utilized. Is the estimation of 5.2 ac-feet usage for construction over the entire span of construction? Is this number based on the amounts discussed in 4.0, page 4-1? What is the time-frame? Also, there is no source cited for the groundwater water recharge and withdrawal rates. Are these numbers an average and if so, over what period of time? This discussion needs to be expanded to account for the determination of no significant impact.

7. Page 3-4, The Tohono O’odham Nation. “The largest of the four areas within TON” shares approximately 70 miles with Mexico and contains significant cultural and biological resources.
8. Page 5-1, 5.0. Cumulative Impacts. As stated, this section discusses how the project affects the region. The WVMP and other Nation programs that oversee and assess impacts to the Nations’ biological and other resources were not consulted as to how the pedestrian fence may affect these resources.

Land Use. While it states that “less than 0.002 percent of OPCNM total acreage” would be impacted, the land usage as utilized as a north-south migratory and forage path will have a significant impact to wildlife by impeding their movement.

9. Page 5-4, Biological Resources. See Land Use above. Until and when there is discussion about the quality and quantity of resources available to wildlife and plants to provide for their sustainability in the region the contention that over the long-term species and community viability will not be significantly impacted cannot be supported.
10. Page 5-5, Socioeconomics. Possible IA traffic funneled to areas around the pedestrian fence onto the Nation may have some relative, if not significant, cumulative impact to villages on the Nation’s western boundary. If IA foot traffic increases in these areas, there may be a

corresponding increase in public safety issues. The Nation's police and medical services to address these issues would also increase.

11. Page 7-1, Public Involvement. Although a primary stakeholder in the region, the Nation was not consulted and coordinated with in preparation of this document as were other tribes as evidenced in Appendix C. Also noted was the increase of primary fence from 4.2 miles provided to correspondents to 5.2 miles in the current DEA. In order to make accurate assessments for impacts to natural and cultural resources it is important that any changes be provided to interested parties.

Thank you for the opportunity to provide comments to this Draft Environmental Assessment and we look forward to future coordination on this and other projects that may affect the biological resources of the Tohono O'odham Nation. If you have any questions or comments please contact me at 520-383-1513 or karen.howe@tonation-nsn.gov.

Respectfully,



Karen Howe
Ecologist

cc: Ned Norris, Jr., Chairman Tohono O'odham Nation
Isidro Lopez, Vice Chairman, Tohono O'odham Nation
Selso Villegas, Director, Natural Resources Department
Tohono O'odham Legislative Council, Natural Resources Committee
Peter Steere, Manager, Cultural Affairs Program

[electronic signature on file]



INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

October 11, 2007

Eric W. Verwers
Director, Engineering and Construction Support Office
Army Corps of Engineers, Fort Worth District
ATTN: CESWF-PM-EC/McGregor
819 Taylor Street, Room 3A28
Fort Worth, TX 76102

Subject: Draft Environmental Assessment for the Proposed Installation of 5.2 miles of Primary Fence near Lukeville, Arizona, United States Border Patrol, Tucson Sector

Dear Mr. Verwers:

The United States Section, International Boundary and Water Commission (USIBWC) would like to thank you for the opportunity to review the subject document. As indicated in previous correspondence related to Border Patrol fence projects, the USIBWC requests that proposed construction activities be accomplished in a manner that does not change historic surface runoff characteristics at the international border. If the project falls within USIBWC jurisdiction or property, the USIBWC will not approve any construction near the international boundary in the United States that increases, concentrates, or relocates overland drainage flows into either country. This requirement is intended to ensure that developments in one country will not cause damage to lands or resources in the other country as required by the 1970 Treaty. We also request that you ensure that structures constructed along the border are maintained in an adequate manner and that liability issues created by these structures are addressed.

As with previous work by Border Patrol along the international boundary, the USIBWC requires that proposed works and related facilities not affect the permanence of existing boundary monuments and not impede access for their maintenance by USIBWC personnel. Any proposed construction must allow for line-of-sight visibility between each of the boundary monuments. The USIBWC requests that engineering drawings be submitted for review and approval before beginning construction on USIBWC jurisdictional property. The drawings must show the location of each component in relationship to the international boundary and nearby monuments.

In order to avoid any confusion and to allow better coordination, the USIBWC requests that a table be added to the Cumulative Effects Section that lists all the border fence projects, by state, that are being programmed for construction. This is due to the overwhelming amount of projects by the Border Patrol along the international border. For your information, the USIBWC has designated Mr. Richard Peace, Division Engineer, Operations and Maintenance Division as the agency single point of contact for border fence and other border security projects. Any future correspondence should be addressed to Mr. Peace at the letterhead address.

If you have any questions regarding these comments, please contact Mr. Richard Peace, at (915) 832-4158.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Peña'.

Carlos Peña, Jr., P.E.
Division Engineer
Environmental Management Division

October 9, 2007

William Fickel, Jr.
Chief, Planning, Environmental and Regulatory Division
U.S. Army Corps of Engineers
Fort Worth District, ATTN: CESWF-PM-EC/McGregor
819 Taylor Street, Room 3A28
Fort Worth, Texas 76102-0300

Dear Mr. Fickel, Jr:

Thank you for the opportunity to review and comment on the Draft Environmental Assessment and Draft Finding of No Significant Impact for the Proposed Installation of 5.2 Miles of Pedestrian Fence, United States Border Patrol, Tucson Sector, Arizona and adjacent to Organ Pipe Cactus National Monument. Organ Pipe Cactus National Monument staff is submitting the following comments:

Finding of No Significant Impact (FONSI):

There are only two alternatives considered in the draft with one being no action and the other being the proposed or possibly the preferred.

We suggest an additional alternative which would include a combination of pedestrian fencing, remote technology, and law enforcement effort. As an example, the proposed pedestrian fence west of Lukeville would extend to the end for the existing National Park Service vehicle barrier (Normandy Barrier) and a remotely operated video camera placed at the top of Sonoyta/Monument Hill to monitor incursions on either side. This combined with increased law enforcement presence, would likely deter illegal activity from and minimize the impact of the proposed project on resources in this area. It would also minimize the enormous impacts to Sonoyta/Monument Hill resources and possibly keep this work in the realm of an Environment Assessment. With the additional portion of new road especially extending possibly 150 feet from the International Boundary and 90 feet beyond the Roosevelt Reservation the nature of this work will cause irreparable damages to resources now and into the future and will probably require a full Environmental Impact Statement.

Another major concern is the proper conveyance of floodwaters through the pedestrian fence. It should be more clearly defined in the EA and FONSI. Specifically, design drawings should be included as to how floodwaters will be conveyed through the pedestrian fence and debris normally accumulating on existing vehicle barrier dealt with.

Utilizing the design – build concept works in many projects and probably will for this one too. The concern again is that the final EA should include alternative and final drawings of approved designs which will allow for a more consistent review.

FONSI-2, Environmental Consequences: The home range of many species of small mammals and reptiles are localized within, could be contained within the project scope, and cross the international boundary. The presence of a pedestrian fence which could prevent small mammals and reptiles from crossing the international boundary could have more than a minimal impact on individuals as they are denied access to important forage and breeding habitat.

FONSI-3, Environmental Consequences: Based on past security measures near POE's, it is likely that the presence of a pedestrian fence on either side of the Lukeville POE will force IA's into more remote areas of the monument. Trash and debris may be reduced on a local scale in the project corridor; however, the regional deposition of trash from IA's will shift to more remote areas of the monument.

Executive Summary

Page iii: The correct citation year for the Organ Pipe Cactus National Monument vehicle barrier EA and FONSI is 2003.

Proposed Action Alternative:

2.2, Proposed Action Alternative: It is anticipated an area greater than the Roosevelt Reservation (60ft.) will be needed to construct an access road, vehicle turn arounds, and staging area for the pedestrian fence over Sonoyta/Monument Hill. The current grade on Monument Hill is greater than 10%. In order to transport equipment to the work site, switchbacks may be required to traverse either side of Sonoyta/Monument Hill and, consequently, require the access road to be partially located outside of the Roosevelt Reservation. This type of disturbance would not support the current Finding of No Significant Impact and requires additional analysis of effects.

2.2, Proposed Action Alternative: It is difficult to evaluate the effects of the preferred alternative on the surrounding resources because no fence design was included in the document. The final draft document should include the current and alternative designs and analyze the impact of this design on the surrounding resources.

2.2, Proposed Action Alternative: Staging areas and turnarounds could likely be located outside of the Roosevelt Reservation when constructing the new primary fence over Sonoyta/Monument Hill.

Affected Environment

3.3.2, Wildlife: Sonoran toad is widespread throughout the desert and breeds in ephemeral pools and could be found within the project area.

Table 3-1, Federally listed and proposed species: Organ Pipe Cactus National Monument supports one known population of acuña cactus, located approximately 8 miles north of the international boundary.

3.6.1.1, Sonoran Pronghorn: Mexico Highway 2 is not adjacent to the project corridor as it joins the boundary at OPCNM approximately 5 miles west of the POE. Additionally, the existing NPS vehicle barrier was designed to allow for pronghorn passage and is not considered an impediment to Sonoran pronghorn movement (NPS 2003).

3.6.1.3 Acuña cactus: There are 6 known populations of acuña cactus in the United States and Sonora, Mexico (Rutman 2007). One population is located on approximately 1,900 acres in Organ Pipe Cactus National Monument (Rutman 2007).

Figure 3-1, Sonoran Pronghorn Range with Project Corridor: This figure should indicate the location of Mexico Highway 2 as it is referenced in the previous paragraph.

3.4, Unique and Environmentally Sensitive Areas: The document adequately describes the unique habitat and vegetation of Organ Pipe Cactus National Monument and its surrounding lands. However, additional information should be included on any unique and environmentally sensitive areas in the project area. These include the rocky hillside communities on Monument Hill and the many xeroriparian communities which cross through the project area. Xeroriparian communities are a critical component of the Sonoran Desert ecosystem.

3.5, No mention made of consideration for protection of Wilderness Values especially since a major portion of the work will take place adjacent to monument wilderness.

3.7, The Tohono O'odham Nation has direct affiliation with Organ Pipe Cactus National Monument. They should also be contacted to comment on cultural landscapes and traditional properties.

3.12, Aesthetics: Please see comment above for 3.6.1.1 in reference to the proximity of Mexico Highway 2 to the project corridor.

3.12, Aesthetics: The items listed, with the exception of the existing PVB, can not be seen from South Puerto Blanco Drive where the view shed and aesthetics would be impacted from construction of the pedestrian fence. Consider utilizing non reflective non galvanized or coated metals in the design of this fence. Material color should match the natural rust patina on the vehicle barrier in place.

Page 3-16, Photograph 3-2: The photograph is from an area west and outside of the project corridor.

Environmental Consequences

4.0, Environmental Consequences: As stated above, it's difficult to evaluate the effects of the preferred alternative on the surrounding resources because no fence design was included in the document. The next draft document should include the current and alternative designs and analyze the impact of this design on the surrounding resources.

4.1.2, Land Use, Alternative 2: Based on past border security actions, it is likely that IAs will move to more remote areas of the monument as a result of the proposed alternative. This could lead to additional traffic and potential adverse indirect impact in areas away from the pedestrian fence.

4.1.2, Land Use, Alternative 2: The EA indicated that 7 acres outside of the Roosevelt Reserve will be impacted from this access. However, an engineered drawing of the proposed route up and over "Sonoyta Hill" should be completed and included in the EA along with an analysis of the amount of land which will be disturbed from this route.

4.2.2, Soils, Alternative 2: The approximate acreage of soils to be impacted by this alternative should also include soils for the access road over "Sonoyta Hill". In the design water diversion and soil retention structures will need to be considered for the cleared area over Sonoyta/Monument Hill.

4.3.2.2, Wildlife, Alternative 2: Please support the statement "...previously disturbed, and the remainder has limited vegetation, which is now considered poor quality habitat." with a citation supporting this statement and description of what wildlife species this would be considered poor habitat.

4.3.2.2, Wildlife, Alternative 2: The statement "...due to tens of thousands of acres of suitable, similar habitat adjacent to the project corridor." is not accurate. OPCNM contains a mosaic of diverse habitat ranging Sonoran desert scrub to temperate mountain communities. Wildlife in OPCNM is diverse and many are found only in localized areas; such as the Acuña cactus, Senita cactus, Sonoyta mud turtle, and desert tortoise. Desert tortoise is present in several areas within the project scope and the fence design should ensure adequate passage for desert tortoise between the United States and Mexico.

4.3.3.2, Non-native and invasive species, Alternative 2: The document states that "With the exception of Sonoyta Hills, this area has been previously disturbed from the construction of the existing PVBS". This is not an accurate statement as the NPS vehicle barrier project scope was 30 ft. from the international border with the exception of 60 ft for staging areas. The scope for this project is 60 ft from the international border.

4.3.3.2, Non-native and invasive species, Alternative 2: Please support the following statement "Disturbances would occur adjacent to existing roads and would not create new dispersal corridors or result in the expansion of non-native or invasive plant species distributions." with a citation. Once introduced and established, invasive species can spread by human and/or animal vector and wind.

4.4.2, Unique and Environmentally Sensitive Areas, Alternative 2: The following two statements contradict each other:

“The construction crew and equipment would access the project corridor along the border road entirely within the Roosevelt Reservation, limiting visual and noise impacts to the OPCNM”.

“However, the use of South Puerto Blanco Road would be required to access the project corridor on the western face of Sonoyta Hill.”

Please clarify this discrepancy.

Page 4-7, 4.4.2, Unique and Environmentally Sensitive Areas, Alternative 2: The first paragraph address aesthetics in several places, however the subheading indicates the topic is “Unique and Environmentally Sensitive Areas”.

4.4.2, Unique and Environmentally Sensitive Areas, Alternative 2: Due to the open terrain which typifies OPCNM, the proposed action would be visible from areas outside of the disturbed area, including Gachado Line Camp, South Puerto Blanco Road, the El Camino Del Dos Republicos.

4.7.2, Cultural Resources, Alternative 2: Proposed Action Alternative: The NPS monitors the condition of its List of Classified Structures (LCS). International Boundary Monument 166, 167, and 168 are on the NPS LCS. The EA should describe how NPS staff will access the sites post construction.

4.9.2, Water Resources, Alternative 2: The National Park Service is concerned about the potential for water to be restricted through washes which the pedestrian barrier will cross. During high water events, debris can build up against any barrier in washes (Photo 1) and change water flow direction and pattern and channel water along the road to an area of less resistance (Photo 2). Any change to water flow direction and pattern will, in turn, change the hydrology of the area on a local and, if large, enough, general scale on both the United States and Mexico side of the international border. The pedestrian fence design should accommodate water flow through the fence without changing hydrologic function of the area.



Photo 1: Debris backup against the vehicle barrier during one high water flow event at Vulture Wash, Organ Pipe Cactus National Monument, 2005.



Photo 2: Erosion around a vehicle barrier post during one high water flow event, Organ Pipe Cactus National Monument 2005.

4.12.2, Aesthetics, Alternative 2: The construction of a pedestrian fence over Sonoyta Hill would constitute a long-term adverse impact to the visual quality of this area, which is visible from State Highway 85, Lukeville and South Puerto Blanco Road.

Page 5-2, Table 5-1: There are several discrepancies in the Approximate Distance From Project Corridor (miles) column. Specifically:

- Lease of an existing vehicle maintenance facility in Ajo, Arizona = 40 miles.
- Proposed construction of 36 miles of pedestrian barrier, 35 miles of patrol and drag road, eight water wells, two new temporary staging areas, five existing staging areas, and approximately 7.5 miles of improvements to north-south access roads = 15 miles
- Proposed acquisition of 30 acres adjacent to the USBP Ajo station for horse corral, station expansion, and parking = 30 miles.

Page 5-3, Cumulative Impact: The correct citation is Kralovec 2007.

Page 5-4, Cumulative Impact, Biological Resources: Please define 'suitable habitat' in lack of and vast amounts in terms of species composition the statement "...result in insignificant cumulative impacts to vegetation communities and wildlife populations due to the lack of suitable habitat in the project corridor and vast amounts of suitable habitat surrounding the project corridor." Also, please support this statement with a citation which explains which species the habitat is unsuitable for in the project corridor.

6.3, Environmental Design Measures, Biological Resources:

6.4, Environmental Design Measures, Cultural Resources: The document should describe what type of buffers will be employed to protect International Boundary Monument 166, 167, and 168.

There are several other elements which should be considered and inclusive of the final Environmental Assessment for this project;

- Contractor staging sites and access to specific areas along the fence line
- Designate water source opportunities for the contractors-the monument is prohibited from selling water to outside contractors.
- Define responsible party for continued maintenance of fence and roadway.

Sharing a couple of final recommendations in general; I would once again ask you to fully evaluate the benefits of continuing the pedestrian fence over Sonoyta/Monument Hill verses ending it at the end of our Normandy Barriers. Our preference if asked would be to save this funding and utilize it elsewhere along the border. The other recommendation is to be sure the new design of this pedestrian fence is incorporated into the vehicle barrier in place and allows for continued maintenance of these fences for future out years. We do not want to see a second fence built prohibiting access to the vehicle barrier in place or for that matter placing employees in jeopardy with no immediate retrieval place if the situation requires it.

Thanks again and I look forward to your Final Environmental Assessment.

Sincerely,

Lee Baiza
Superintendent, Organ Pipe Cactus National Monument

Cc:Robert Frankeberger, State Historic Preservation Officer
Peter L. Steere, Manager Cultural Affairs Office, Tohono O'odham
Dion Ethell, Public Lands Liaison, U.S. Department of Homeland Security



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ROBERT R. WOODHOUSE, ROLL
DIRECTOR
DUANE L. SHROUFE
DEPUTY DIRECTOR
STEVE K. FERRELL



October 5, 2007

U.S. Army Corps of Engineers
Fort Worth District
ATTN: CESWF-PM-EC/McGregor
819 Taylor Street, Room 3A28
Fort Worth, TX 76102

Re: Draft Environmental Assessment and Draft Finding of No Significant Impact for the Proposed Installation of 5.2 Miles of Pedestrian Fence, United States Border Patrol, Tucson Sector, Arizona

To Whom It May Concern:

The Arizona Game and Fish Department (Department) appreciates the opportunity to comment on the Draft Environmental Assessment (DEA) and Finding of No Significant Impact (FONSI) for the proposed project located near the Lukeville Port of Entry. The Department recognizes national security as a top priority for the State of Arizona. That being stated, the Department is concerned that much of the tactical infrastructure (pedestrian fencing, roads, etc.) associated with border protections against increasing numbers of undocumented immigrants is fragmenting and degrading important habitats, impacting genetic viability of species, and leading to further declines of currently imperiled and rare species.

For the proposed project analyzed within the DEA, the Department is concerned about increased activities by Border Agents at the termination points of the fence. The added activities and protection measures, without consideration of "virtual" fencing may further impact and degrades habitat and movement abilities for wildlife. We advocate for mitigating measures to support and conserve wildlife, including opportunities to collect baseline information to better document the impacts of illegal activities and Border Operations on wildlife and wildlife habitat.

The DEA does not address species other than federally listed or candidate species. There are two reptile species of interest that have the potential to be impacted directly by construction of the fence through the Sonoyta Hills; Sonoran desert tortoise and Mexican rosy boas. We recommend that construction activities follow the Department's "Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects" which can be found at <http://www.azgfd.gov/hgis/pdfs/Tortoisehandlingguidelines.pdf>. In this particular case, the Department recommends that any tortoises that are encountered should be kept within the Sonoyta Hills, and not displaced farther away.

October 5, 2007

2

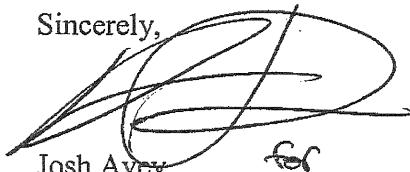
Mexican rosy Boas are considered a Species of Greatest Conservation Need in the Department's State Wildlife Action Plan. The distribution of Mexican rosy boas is not well understood, and local population status is unknown. While the Department does not have specific recommendations dealing with rosy boas, the desert tortoise handling guidelines would also apply to this species with respect to searching the site and moving the animals.

Understanding that for many proposed security infrastructure projects, there can be no reliable conservation measures taken to reduce or mitigate impacts to wildlife, given the federal goal of reducing and managing the flow of undocumented immigrants into the U.S. Therefore, the Department must determine how to meet our agency's Mission, under conditions which are difficult to offset, given the security and protection priorities. In this regard, the Department provides the following recommendations:

- We request increased and upfront coordination between the BP, CBP, DHS, and other border protection agencies, including meeting with staff to discuss plans and infrastructure proposals (such as road construction, construction of fencing and barriers, etc.) and potential impacts on wildlife. Advanced coordination will allow our agencies to identify and resolve potential issues up front.
- Dedicate funding for ecological mitigation and restoration activities, including wildlife enhancement and conservation projects.
- Use low-impact infrastructure, where appropriate, to mitigate the environmental effects of undocumented migration and other illegal activities.
- Emphasize high-tech surveillance alternatives (unmanned aerial surveillance vehicles, motion sensors, laser barriers and infrared cameras) that can improve border security efforts and minimize impacts on wildlife and sensitive habitats.
- Limit the use of pedestrian fences to urban and adjacent areas. Use vehicle barriers (wildlife friendly) in conjunction with virtual fencing in areas where hard infrastructure is necessary and appropriate.

In summary, the Department requests that immediate efforts be made to improve communications between our agencies to improve opportunities to address and mitigate impacts to wildlife and wildlife habitats from border infrastructure projects and activities. Please coordinate with me at 602-789-3605 or javey@azgfd.gov. We appreciate the opportunity to provide these concerns and look forward to speaking with appropriate staff in the near future.

Sincerely,



Josh Avey
Habitat Branch Chief

cc: Bill Van Pelt, Nongame Birds and Mammals Manager
Thomas Jones, Amphibians and Reptiles Program Manager
Bill Knowles, Region IV Habitat Program Specialist

Arizona's On-line Environmental Review Tool

Search ID: 20071005004081

Project Name: Lukeville POE Pedestrian Fencing

Date: 10/5/2007 11:23:51 AM

Please review the entire receipt for project type recommendations and/or species or location information and retain a copy for future reference. If any of the information you provided did not accurately reflect this project, or if project plans change, another review should be conducted, as this determination may not be valid.

Arizona's On-line Environmental Review Tool:

1. This On-line Environmental Review Tool inquiry has generated recommendations regarding the potential impacts of your project on Special Status Species (SSS) and other wildlife of Arizona. SSS include all U.S. Fish and Wildlife Service federally listed, U.S. Bureau of Land Management sensitive, U.S. Forest Service sensitive, and Arizona Game and Fish Department (Department) recognized species of concern.
2. These recommendations have been made by the Department, under authority of Arizona Revised Statutes Title 5 (Amusements and Sports), 17 (Game and Fish), and 28 (Transportation). These recommendations are preliminary in scope, designed to provide early considerations for all species of wildlife, pertinent to the project type you entered.
3. This receipt, generated by the automated On-line Environmental Review Tool does not constitute an official project review by Department biologists and planners. Further coordination may be necessary as appropriate under the National Environmental Policy Act (NEPA) and/or the Endangered Species Act (ESA).

The U.S. Fish and Wildlife Service (USFWS) has regulatory authority over all federally listed species under the ESA. Contact USFWS Ecological Services Offices: <http://arizonaes.fws.gov/>.

Phoenix Main Office
2321 W. Royal Palm Road, Suite 103
Phoenix, AZ 85021
Phone 602-242-0210
Fax 602-242-2513

Tucson Sub-Office
201 North Bonita, Suite 141
Tucson, AZ 85745
Phone 520-670-6144
Fax 520-670-6154

Flagstaff Sub-Office
323 N. Leroux Street, Suite 101
Flagstaff, AZ 86001
Phone 928-226-0614
Fax 928-226-1099

Disclaimer:

1. This is a preliminary environmental screening tool. It is not a substitute for the potential knowledge gained by having a biologist conduct a field survey of the project area.
2. The Department's Heritage Data Management System (HDMS) data is not intended to include potential distribution of special status species. Arizona is large and diverse with plants, animals, and environmental conditions that are ever changing. Consequently, many areas may contain species that biologists do not know about or species previously noted in a particular area may no longer occur there.
3. Not all of Arizona has been surveyed for special status species, and surveys that have been conducted have varied greatly in scope and intensity. Such surveys may reveal previously undocumented population of species of special concern.
4. HDMS data contains information about species occurrences that have actually been reported to the Department.

Arizona Game and Fish Department Mission

To conserve, enhance, and restore Arizona's diverse wildlife resources and habitats through aggressive protection and

Arizona's On-line Environmental Review Tool
Search ID: 20071005004081
Project Name: Lukeville POE Pedestrian Fencing
Date: 10/5/2007 11:23:51 AM

management programs, and to provide wildlife resources and safe watercraft and off-highway vehicle recreation for the enjoyment, appreciation, and use by present and future generations.

Project Category: Law Enforcement Activities Associated with the Border, Fencing

Project Type Recommendations:

Based on the project type entered; coordination with State Historic Preservation Office may be required
<http://www.pr.state.az.us/partnerships/shpo/shpo.html#anchor561695>

During the planning stages of your project, please consider the local or regional needs of wildlife in regards to movement, connectivity, and access to habitat needs. Loss of this permeability prevents wildlife from accessing resources, finding mates, reduces gene flow, prevents wildlife from re-colonizing areas where local extirpations may have occurred, and ultimately prevents wildlife from contributing to ecosystem functions, such as pollination, seed dispersal, control of prey numbers, and resistance to invasive species. In many cases, streams and washes provide natural movement corridors for wildlife and should be maintained in their natural state. Uplands also support a large diversity of species, and should be contained within important wildlife movement corridors. In addition, maintaining biodiversity and ecosystem functions can be facilitated through improving designs of structures, fences, roadways, and culverts to promote passage for a variety of wildlife.

Recommendations will be dependant upon goals of the fence project and the wildlife species expected to be impacted by the project. Please

contact the Project Evaluation Program for further fencing recommendations and specifications.

Project Location and/or Species recommendations:

HDMS records indicate that one or more listed, proposed, or candidate species or Critical Habitat (Designated or Proposed) have been documented in the vicinity of your project (refer to page 1 of the receipt). Please contact:
Ecological Services Office
US Fish and Wildlife Service

2321 W. Royal Palm Rd.
Phoenix, AZ 85021-4951
Phone: 602-242-0210
Fax: 602-242-2513

HDMS records indicate that one or more native plants listed on the Arizona Native Plant Law and Antiquities Act have been documented within the vicinity of your project area (refer to page 1 of the receipt). Please contact:

Arizona Department of Agriculture
1688 W Adams
Phoenix, AZ 85007
Phone: 602-542-4373

HDMS records indicate that Sonoran desert tortoise have been documented within the vicinity of your project area (refer to the species list on page 1 of the receipt). Please review the Tortoise Handling Guidelines found on the Environmental Review Home Page.

<http://www.azgfd.gov/hgis/guidelines.aspx>

Phone Number: (602) 789-3600
Fax Number: (602) 789-3928

Terms of Use

By using this site, you acknowledge that you have read and understand the terms of use. Department staff may revise these terms periodically. If you continue to use our website after we post changes to these terms, it will mean that you accept such changes. If at any time you do not wish to accept the Terms, you may choose not to use the website.

1. This Environmental Review and project planning website was developed and intended for the purpose of screening projects for potential impacts on resources of special concern. By indicating your agreement to the terms of use for this website, you warrant that you will not use this website for any other purpose.
2. Unauthorized attempts to upload information or change information on this website are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and/or the National Information Infrastructure Protection Act.
3. The Department reserves the right at any time, without notice, to enhance, modify, alter, or suspend the website and to terminate or restrict your access to the website.
4. This Environmental Review is based on the project study area that was entered. The review must be redone if the project study area, location, or the type of project changes. If additional information becomes available, this review may need to be reconsidered.

Security:

The Environmental Review and project planning web application operates on a complex State computer system. This system is monitored to ensure proper operation, to verify the functioning of applicable security features, and for other like purposes. Anyone using

Recommendations Disclaimer:

1. Potential impacts to fish and wildlife resources may be minimized or avoided by the recommendations generated from information submitted for your proposed project.
2. These recommendations are proposed actions or guidelines to be considered during **preliminary project development**.
3. Additional site specific recommendations may be proposed during further NEPA/ESA analysis or through coordination with affected agencies.
4. Making this information directly available does not substitute for the Department's review of project proposals, and should not decrease our opportunity to review and evaluate additional project information and/or new project proposals.
5. The Department is interested in the conservation of all fish and wildlife resources, including those Special Status Species listed on this receipt, and those that may have not been documented within the project vicinity as well as other game and nongame wildlife.
6. **Further coordination requires the submittal of this Environmental Review Receipt with a cover letter and project plans or documentation that includes project narrative, acreage to be impacted, how construction or project activity(s) are to be accomplished, and project locality information (including site map).**
7. Upon receiving information by AZGFD, please allow 30 days for completion of project reviews. Mail requests to:

Project Evaluation Program, Habitat Branch
Arizona Game and Fish Department
2221 West Greenway Road
Phoenix, Arizona 85023-4312

Arizona's On-line Environmental Review Tool

Search ID: 20071005004081

Project Name: Lukeville POE Pedestrian Fencing

Date: 10/5/2007 11:23:51 AM

this system expressly consents to such monitoring and is advised that if such monitoring reveals possible evidence of criminal activity, system personnel may provide the evidence of such monitoring to law enforcement officials. Unauthorized attempts to upload or change information; to defeat or circumvent security measures; or to utilize this system for other than its intended purposes are prohibited.

This website maintains a record of each environmental review search result as well as all contact information. This information is maintained for internal tracking purposes. Information collected in this application will not be shared outside of the purposes of the Department.

If the Environmental Review Receipt and supporting material are not mailed to the Department or other appropriate agencies within six (6) months of the Project Review Receipt date, the receipt is considered to be null and void, and a new review must be initiated.

Print this Environmental Review Receipt using your Internet browser's print function and keep it for your records. Further coordination requires the submittal of this Environmental Review Receipt with a cover letter and project plans or documentation that includes project narrative, acreage to be impacted, how construction or project activity(s) are to be accomplished, and project locality information (including site map).

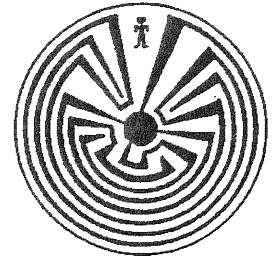
Please provide point of contact information regarding this Environmental Review.

Application or organization responsible for project implementation

Agency/organization: _____
Contact Name: _____
Address: _____
City, State, Zip: _____
Phone: _____
E-mail: _____



TOHONO O'ODHAM NATION
CULTURAL AFFAIRS PROGRAM
P.O. BOX 837 • SELLS, ARIZONA 85634
Telephone (520) 383-3622 • Fax (520) 383-3377



September 20, 2007

Eric W. Verwers
Director, Engineering and Construction Support Office
Department of the Army
Fort Worth District, Corps of Engineers
P.O. Box 17300
Fort Worth, Texas
76102-0300

Dear Mr. Verwers:

Thank you for consulting with the Tohono O'odham Nation on:

The Draft Environment Assessment for the Proposed Installation of 5.2 Miles of Primary Fence Near Lukeville, Arizona, U.S. Border Patrol, Tucson Sector."

The Cultural Affairs Office has the following comments:

- 1. FONSI-page 2 – Only two alternatives considered – 1) the no action alternative and 2) the proposed action alternative**

It appears that the proposed action alternative is the "preferred alternative" although this is not stated.

Other alternatives should have been considered – perhaps one that would involve a natural barrier of vegetation interwoven with the existing vehicle barrier fence.

- 2. FONSI-page 2 – Alternative 2 – 150 ft ROW on Sonoyta Hill is very large and will result in significant impacts to vegetation and wildlife**
- 3. FONSI-page 2 – Alternative 2 – "The Final Design would be developed by design-build contractor." Same mistake made here that was made on the Sasabe Project – you cannot prepare and issue an EA that is supposed to evaluate impacts of 5.2 miles of pedestrian fence and not include a final design. This is unacceptable – final design or at least several option designs need to be presented as part of the EA review – this need to be addressed in a new draft EA that includes more specific designs.**

4. FONSI-page 2 – Environmental Consequences –

“The viewshed of the OPCNM would be impacted by the construction of the pedestrian fence.”

Yes this is true – there is a need to complete a viewshed study and cultural landscape impact study as part of the evaluation process. This has not been done yet.

5. FONSI – page 3 – “the potential exists for shifts in illegal pedestrian traffic to adversely impact resources outside of the project corridor.”

This statement is obvious – illegal pedestrian traffic will go around the east and west side of the pedestrian fence – concentrating impacts on other parts of OPCNM and of course concentrating increased illegal traffic onto the Tohono O’odham Nation east of the Ajo Mountains. The redirection of illegal pedestrian traffic onto the Tohono O’odham Nation was not addressed in the Sasabe EA nor is it addressed in this EA.

The appropriateness of this type of pedestrian fence design in a remote rural wilderness area without 24/7 ground patrol is questionable, just as it was for the Sasabe fence project.

6. FONSI – page 3 – Environmental Design Measures – for these measures to work – there will need to be monitors on site throughout the construction process – past experience strongly suggests that construction contractors will not do an adequate job of self-monitoring.

How will a contractor recognize a previously unknown cultural resource such a buried archaeological site, a burial or a shrine ?

You need to have and fund archaeological monitors and cultural monitors from the Tohono O’odham Nation on site throughout the construction project.

7. FONSI-page 5 – FINDING – “Proposed Action Alternative will not have a significant effect on the environment – Therefore no further environmental impact analysis is warranted.”

Disagree – this conclusion is not supported by EA in present form.

8. page 1-5 – “In some locations, a fence is a critical element of border security”

if a pedestrian fence is built in a remote rural area – unless there is adequate 24/7 ground patrol – the fence is easily breached by going around it, over it, under it or through it

9. page 2.1 Section 2.0 – as stated before an adequate range of alternatives was not addressed

Other alternatives should have been considered – perhaps one that would involve a natural barrier of vegetation interwoven with the existing vehicle barrier fence.

10. page 3.1 – Land Use- March 2006 MOU between DHS, USDI and USDA stating that “all parties recognize that CBP operation and construction within the Roosevelt Reservation is the intended land use of the reservation”

This MOU is flawed – the Tohono O’odham Nation and other border tribes were not consulted nor invited to participate in the MOU – All of these lands is OPCNM are the traditional-use lands of the Tohono O’odham Nation

This MOU may be in violation of the provisions of the Gadsden Purchase with Mexico in 1854 and hereto in reference to provisions of the Treaty of Guadalupe Hidalgo that ended the United States War with Mexico in 1848, regarding the rights of indigenous peoples in the border area.

11. page 3.1-3.2 – “It should be noted that the area outside of the 60 ft Roosevelt Reservation that would be used in order to build the fence over Sonoyta Hill would require use of OPCNM lands, Coordination with the OPCNM has occurred and the OPCNM has indicated their support for the fence construction” (Harper 2007).

the Tohono O’odham Nation was not consulted on this July 2007 agreement that approved a 150 ft ROW corridor on Sonoyta Hill. The archaeological survey reports received for review by the Tohono O’odham Nation did not include a 150 survey corridor on Sonoyta Hill – no Traditional Cultural Place consultation has been completed for this increased ROW on Sonoyta Hill. A consultation and field trip with Hia Ced O’odham elders from the needs to be arranged and completed as part of Traditional Cultural Landscape study.

12. page 3-4 – Cabeza Prieta National Wildlife Refuge, The Tohono O’odham,

no mention made of direct and indirect impacts on the Cabeza Prieta National Wildlife Refuge by diverting more illegal pedestrian traffic onto the refuge.

no mention made of direct and indirect impacts on the Tohono O’odham Nation by diverting more illegal pedestrian traffic onto the lands of the Tohono O’odham Nation

13. page 3.5 – Wilderness – no mentioned made of direct and indirect impacts on OPCNM wilderness areas by diverting and concentrating illegal pedestrian traffic

14. page 3-10 Section 3.7 – Cultural Resources

review of federal cultural resource laws should include the Archaeological Resources Protection Act (ARPA) and the Native American Graves Protection and Repatriation Act (NAGPRA)

page 3-11 table showing cultural periods is oversimplified-should be more detailed

3.7.2 - Previous Investigations - please send copy of 2002 cultural resource report to Cultural Affairs office for review

3.7.3 – Current Investigation – please send copy of this recent cultural resources survey referenced, Tohono O’odham Nation has not received this.

For this type of intrusive tall fence a cultural landscape/viewshed study should be completed in order to evaluate impacts – please send copy of study report when it is completed – this should have been done as part of the cultural resources survey work before the draft EA was issued.

15. page 3-13 – Section 3.10.1 – Environmental Justice

E.O. 12898 – Environmental Justice was designed to identify and evaluate effects of Federal programs and projects on minority and low-income populations in the U.S.

This project has not addressed the fact that this fence will likely divert illegal pedestrian traffic onto the Tohono O’odham Nation to the east.

This impact needs to be evaluated.

16. page 3-15 – Section 3.12 Aesthetics

This section of the EA misses the point completely. The EA is supposed to address the impacts of the proposed pedestrian fence project on the landscape of the project area – building a tall intrusive pedestrian fence will have impacts on the cultural and physical landscape.

As mentioned earlier, a cultural landscape/viewshed study needs to be completed for this proposed project – this type of study would evaluate

the impacts of the proposed fence design on the cultural and physical landscape. This type of study should have been done before the draft EA was done.

Since the project does not have a fence design yet – this problem needs to be solved before a cultural landscape/viewshed study can be done

17. Section 4.0 Environmental Consequences

page 4.1 – paragraph 3 – “At this time the design of the border fence is not known”

An EA cannot adequately analyze and evaluate impacts of a construction project if the project design is “not known”

The EA needs to be rewritten to address the design problem.

All of the impacts discussed in this section are difficult to evaluate when you don’t know what the construction design is going to be.

The 150 ft ROW corridor proposed on Sonoyta Hill raises concerns about impacts on vegetation, wildlife and cultural sites

Sonoyta Hill needs to be evaluated as a possible Traditional Cultural Place – a trip of tribal elders to visit this sites Sonoyta Hill needs to be arranged to evaluate its significance if any as a Traditional Cultural Place – the National Historic Preservation Act of 1966 requires this.

18. page 4-10 – Section 4.7 Cultural Resources

Copies of the 2002 and 2007 cultural resources report have not been provided to the Tohono O’odham Nation for review.

This section of the report cannot be adequately evaluated until these reports have been reviewed – please send them as soon as possible

As stated earlier – a Cultural Landscape/Viewshed study needs to be completed so impacts of this project with a “unknown design” can be evaluated – this type of study involves input from archaeologists, historians, landscape specialists with the NPS and members of the Tohono O’odham Nation.

Any type of construction project such as a tall fence or a power line has the potential to create impacts on the visual manifestation of the cultural landscape and aesthetic view shed – this EA does not address this issue.

Since previously unknown cultural resources may be encountered during construction such as a buried archaeological site, a burial or a shrine may be encountered – archaeological monitors and cultural monitors from the Tohono O’odham Nation need to be present throughout this construction project.

As stated earlier the selected construction contractor does not have the expertise to identify cultural resources that may be encountered during construction – so DHS/BP needs to provide adequate funding to cover the costs of archaeological monitors and cultural monitors from the Tohono O’odham Nation for the entire length of the proposed construction project.

The monitors should be identified as part of the cultural resources treatment plan for this project.

19. page 4-15 – Section 4.12 Aesthetics

Please refer to Nos. 4, 14, 17, and 18 that discuss the need to complete a cultural landscape/viewshed study.

20. page 5-1 – Section 5.0 – Cumulative Impacts

In the discussion of cumulative impacts – Table 5-1 is shown to illustrate examples of recently completed or other possible future projects that may involve impacts to the border region by actions of DHS/BP.

The proposed construction of 36 miles of pedestrian barrier, 35 miles of patrol and drag roads, eight water wells, two new staging areas, five existing staging areas and 7.5 miles of improvements to north-south access roads all involve considerable possible impacts to the border lands that will require new EA’s to be done for each projects. The Tohono O’odham Nation needs to be kept informed of all of these projects and copies of draft EA’s, cultural resources reports and biological reports need to be sent for review prior to the draft EA’s being sent out for review.

Where are these proposed projects located – more specific information is needed.

These proposed projects cannot be piggy-backed onto this EA.

page 5-4 Cultural Resources

cannot be adequately evaluated until copies of 2002 and 2007 cultural resource reports sent to Tohono O’odham Nation for review.

full impacts cannot be addressed until a cultural landscape/viewshed study is completed that provides an analysis of the impacts of a tall intrusive fence on the cultural landscape and aesthetic viewshed.

21. page 6.1 – Section 6.0 Environmental Design Measures

please refer to comments No. 6 and 18 for discussion of need to have archaeological and cultural monitors on site during construction

page 6.2 and 6.3 – Cultural Resources

EA states “ if any cultural material is discovered during the construction efforts, then all activities will halt until a qualified archaeologist can be brought in to assess the cultural remains.”

The selected contractor whoever that may be is not qualified to do this.

Archaeological monitors and cultural monitors from the Tohono O’odham Nation who are trained to identify and deal with cultural discoveries whether they are cultural artifacts, buried features, burial or shrines.

DHS/BP must provide adequate funding for these archaeological monitors and cultural monitors from the Tohono O’odham Nation

Burial discovery plan needs to be prepared and included with cultural resources treatment plan.

21. page 7-1 – Section 7.0 Public Involvement

List presented includes other government agencies consulted as part of preparation of the EA

List includes “Federally Recognized Tribes.”

This statement is not true- Tohono O’odham Nation not consulted during preparation of this EA.

Tohono O’odham Nation first consulted when the Draft EA received in the mail.

What other tribes have received the EA ? What other tribes were consulted during EA preparations ?

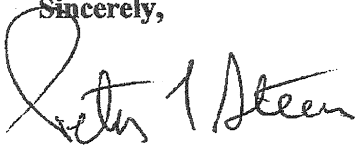
Again DHS/BP has not involved the Tohono O’odham Nation as part of

the consultation and coordination that occurred during the preparation of this EA.

The lands included within the Organ Pipe Cactus National Monument are the "traditional-use lands " of the Tohono O'odham and the Hia Ced Oodham as recognized by the Federal Land Claims Court and Native American Graves Repatriation and Protection Act procedures in Arizona.

We look forward to reviewing a new draft of this EA.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter L. Steere". The signature is fluid and cursive, with the first name "Peter" and last name "Steere" clearly distinguishable.

Peter L. Steere, Manager
Cultural Affairs Office, Tohono O'odham Nation

cc: Lee Baiza, Superintendent, Organ Pipe Cactus National Monument
Joseph Tuomey, Archaeologist, Organ Pipe Cactus National Monument
Nancy Parrish, USACE, Fort Worth

**DRAFT ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED INSTALLATION OF 5.2 MILES OF PRIMARY FENCE
NEAR LUKEVILLE, ARIZONA
U.S. BORDER PATROL
TUCSON SECTOR**

Review Comments Matrix

| PROJECT: | | AJO DRAFT EA | DATE: | October 17, 2007 |
|---|-----------|--|---|------------------|
| PROJECT MILESTONE: | | Draft Environmental Assessment for the Proposed Installation of 5.2 Miles of Primary Fence Near Lukeville Arizona | | |
| Response Legend: A - Concur; D = Do Not Concur; E - Exception; X - Delete Comment | | | | |
| # | Reviewer | Comment | Response | |
| 1 | P. Steere | FONSI-page 2 Only two alternatives considered – 1) the no action alternative and 2). It appears that the proposed action alternative is the “preferred alternative” although this is not stated. Other alternatives should have been considered – perhaps one that would involve a natural barrier of vegetation interwoven with the existing vehicle barrier fence. | D. A natural barrier of vegetation does not meet the purpose and need of the Proposed Action because it is easily defeatable. E. One other alternative was considered but eliminated from further review. This alternative was to use technology in lieu of infrastructure. Because the use of technology alone would not provide a practical solution to achieving effective control of the border in USBP Tucson Sector. Therefore, this alternative would not meet the purpose and need. See Section 2.3.1 of the Final EA. | |
| 2 | P. Steere | FONSI-page 2-Alternative 2 150 ft ROW on Sonoyta Hill is very large and will result in significant impacts to vegetation and wildlife | D. The impact over Sonoyta Hill outside of the 60-foot Roosevelt Reservation is limited to only 7 acres. The Organ Pipe Cactus National Monument (OPCNM) is over 330,000 acres; therefore, the Proposed Action Alternative would impact less than 0.002 percent of the OPCNM not within the Roosevelt Reservation and is not considered significant. | |
| 3 | P. Steere | FONSI-page 2-Alternative 2 “The Final Design would be developed by design-build contractor.” Same mistake made here that was made on the Sasabe Project – you cannot prepare and issue an EA that is supposed to evaluate impacts 5.2 miles of pedestrian fence and not include a final design. This is unacceptable – final design or at least several option designs need to be presented as part | D. The EA does address potential impacts on a worse case scenario, regardless of design. The conceptual design footprint was developed by the design engineers and they believe this will be the maximum footprint needed to accomplish the proposed project. | |

**DRAFT ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED INSTALLATION OF 5.2 MILES OF PRIMARY FENCE
NEAR LUKEVILLE, ARIZONA
U.S. BORDER PATROL
TUCSON SECTOR**

Review Comments Matrix

| # | Reviewer | Comment | Response |
|---|-----------|--|--|
| 4 | P. Steere | <p>of the EA review – this need to be addressed in a new draft EA that includes more specific design.</p> <p>FONSI-page 2-Environmental Consequences “The viewshed of the OPCNM would be impacted by the construction of the pedestrian fence.” Yes this is true – there is a need to complete a viewshed study and cultural landscape impact study as part of the evaluation process. This has not been done yet.</p> | <p>D. The TON along with other federally recognized tribes that claim a cultural affinity to the area were contacted in June 2007 and were requested to identify any traditional cultural properties (TCPs) that may potentially be impacted by the proposed fence construction. No response identifying any TCPs near the proposed project corridor was received from the TON or other Federally recognized tribes. No archaeological sites were identified within the project corridor during the archaeological surveys of the project corridor. The 2002 survey conducted by the National Park Service identified two cultural landscapes, Dos Lomitas Ranch/Blankenship Well and Quitobaquito Well. Neither of these cultural landscapes would be impacted by the proposed fence construction. At this time a comprehensive TCP survey of the border area involving the TON and other Federally recognized tribes is in the planning and development stages for future projects along the border.</p> |

**DRAFT ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED INSTALLATION OF 5.2 MILES OF PRIMARY FENCE
NEAR LUKEVILLE, ARIZONA
U.S. BORDER PATROL
TUCSON SECTOR**

Review Comments Matrix

| # | Reviewer | Comment | Response |
|---|-----------|--|---|
| 5 | P. Steere | FONSI-page 3-"the potential exists for shift in illegal pedestrian traffic to adversely impact resources outside of the project corridor." This statement is obvious – illegal pedestrian traffic will go around the east and west side of the pedestrian fence – concentrating impacts on other parts of OPCNM and of course concentrating increased illegal traffic onto the Tohono O'odham Nation east of the Ajo Mountains. The redirection of illegal pedestrian traffic onto the Tohono O'odham Nation was not addressed in the Sasabe EA nor is it addressed in this EA. The appropriateness of this type of pedestrian fence design in a remote rural wilderness area without 24/7 ground patrol is questionable, just as it was for the Sasabe fence project. | D. As indicated in the throughout Section 4 of the Draft EA the impacts of illegal pedestrian traffic are difficult if not impossible to determine due to the shifting of illegal traffic. The project corridor and areas to the west and east is currently patrolled by the USBP 24/7. Additionally, the proposed pedestrian fence would act as a force multiplier and allow the USBP to deploy additional agents to those areas lacking pedestrian fence (i.e., Cabeza Prieta National Wildlife Refuge and the Tohono O'odham Nation). |
| 6 | P. Steere | FONSI -page 3 -Environmental Design Measures - for these measures to work - there will need to be monitors on site throughout the construction process - past experience strongly suggests that construction contractors will not do an adequate job of self-monitoring. How will a contractor recognize a previously unknown cultural resource such a buried archaeological site, a burial or a shrine? You need to have and fund archeological monitors and cultural monitors from the Tohono O'odham Nation on site throughout the construction project. | A. The document now reads, "Construction near the Gachado Line Camp will be monitored by professional archeological monitors." D. No Tohono O'odham Nation monitors are expected to be required. |
| 7 | P. Steere | FONSI-page 5 - FINDING - "Proposed Action Alternative will not have a significant effect on the environment - Therefore no further environmental impact analysis is warranted." Disagree – this conclusion is not supported by EA is present form. | D. CBP believes the current EA analyzes all of the potential impacts based on a worse case scenario, and that these impacts are less than significant. |
| 8 | P. Steere | page 1-5 - "In some locations, a fence is a critical element of border security" if a pedestrian fence is built in a remote rural area - unless there is adequate 24/7 ground patrol - the fence is easily breached by going around it, over it, under it or through it | A. See response to number 5. |

**DRAFT ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED INSTALLATION OF 5.2 MILES OF PRIMARY FENCE
NEAR LUKEVILLE, ARIZONA
U.S. BORDER PATROL
TUCSON SECTOR**

Review Comments Matrix

| # | Reviewer | Comment | Response |
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| 9 | P. Steere | Page 2.1 Section 2.0 - as stated before an adequate range of alternatives was not addressed Other alternatives should have been considered - perhaps one that would involve a natural barrier of vegetation interwoven with the existing vehicle barrier fence. | D. See response to number 1. |
| 10 | P. Steere | <p>Page 3-1 – Land Use – March 2006 MOU between DHS, USDI and USDA stating that "all parties recognize that CBP operation and construction within the Roosevelt Reservation is the intended land use of the reservation"</p> <p>This MOU is flawed -the Tohono O'odham Nation and other border tribes were not consulted nor invited to participate in the MOU -All of these lands is OPCNM are the traditional-use lands of the Tohono O'odham Nation</p> <p>This MOU may be in violation of the provisions of the Gadsden Purchase with Mexico in 1854 and hereto in reference to provisions of the Treaty of Guadalupe Hidalgo that ended the United States War with Mexico in 1848, regarding the rights of indigenous peoples in the border area.</p> | D. The legality of the MOU is beyond the scope of this EA. |
| 11 | P. Steere | <p>page 3.1-3.2 -"It should be noted that the area outside of the 60 ft Roosevelt Reservation that would be used in order to build the fence over Sonoyta Hill would require use of OPCNM lands, Coordination with the OPCNM has occurred and the OPCNM has indicated their support for the fence construction" (Harper 2007).</p> <p>The Tohono O'odham Nation was not consulted on this July 2007 agreement that approved a 150 ft ROW corridor on Sonoyta Hill The archaeological survey reports received for review by the Tohono O'odham Nation did not include a 150 survey corridor on Sonoyta Hill -no Traditional Cultural Place consultation has been completed for this increased ROW on Sonoyta Hill. A consultation and field trip with Hia Ced O'odham elders from the needs to be arranged and completed as part of Traditional Cultural Landscape study.</p> | <p>E. No agreement has been made between NPS and CBP. The statement, ".....OPCNM has indicated their support for the fence construction (Harper 2007) has been removed from the document."</p> <p>E. See response to number 4.</p> |